

This General Order amends and replaces General Order 19-0004

Issued 8-21-2020

Mobile Audio Video and Body Worn Cameras

- I. PURPOSE AND SCOPE
- II. POLICY
- III. LEGAL CONSIDERATIONS
- IV. MAV/BWC COORDINATOR
- V. MEMBER PRIVACY EXPECTATION
- VI. MEMBER RESPONSIBILITIES
- VII. TESTING / POWERING OF DEVICE
- VIII. NOTIFICATION
- IX. REQUIRED ACTIVATION
- X. DEACTIVATION
- XI. DISCRETIONARY DEACTIVATION / MUTING
- XII. EXCEPTION FOR HEALTH CARE FACILITIES
- XIII. PROHIBITED USES
- XIV. IDENTIFICATION AND PRESERVATION OF RECORDINGS
- XV. UPLOADING AND ACCOUNTABILITY OF BWC CONTECT
- XVI. REPORTING REQUIREMENTS
- XVII. CRITICAL INCIDENT PROCEDURE SECURITY
- XVIII. SECURITY
- XIX. RETENTION
- XX. DELETION OF ACCIDENTAL OR MISTAKEN RECORDINGS
- XXI. REVIEW OF RECORDINGS
- XXII. DISSEMINATION
- XXIII. PRESERVATION OF RECORDINGS
- XXIV. MAINTENANCE PROCEDURE
- XXVI. MARYLAND PUBLIC INFORMATION ACT (MPIA) REQUESTS
- XXVII. POSTING OF POLICY
- XXVIII. TRAINING
- XXIX. SECONDARY EMPLOYMENT

I. PURPOSE AND SCOPE

This policy provides direction and guidelines on the use of body-worn cameras (BWCs) and mobile audio video systems (MAVs) so officers may reliably record their contacts with the public in accordance with the law and to establish guidelines regarding storage, release, and retention of video files.

II. POLICY

It is the policy of the St. Michaels Police Department that all uniform members who are issued Body Worn Cameras and/or operate department vehicles equipped with mobile audio video systems shall wear/utilize and activate their MAV/BWC's when such use is appropriate to the proper performance of his or her official duties. MAV/BWC systems allow for accurate documentation of police-public contacts, arrests, and critical

Issued 8-21-2020

incidents. They also serve to enhance the accuracy of officer reports and testimony in court. Audio and video recordings enhance this agency's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer's evaluation and training. The MAV/BWC may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

The use of the MAV/BWC shall be in compliance with this policy and all local, state, and federal laws.

Members may only utilize issued MAV/BWC devices while on duty. The use of a non-issued MAVWC device at any time is strictly prohibited.

All images and sounds recorded by the MAV/BWC are the property of the St. Michaels Police Department.

Uniform members issued a BWC shall wear the BWC at all times while on-duty.

Violations of this policy may result in disciplinary action.

III. LEGAL CONSIDERATIONS

The State Wiretap Act, under the Courts and Judicial Procedures Article sections 10-401 and 10-402, 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:

- (a) The law enforcement officer is in uniform or displaying the officer's badge or other insignia.
- (b) The law enforcement officer is party to the oral communication.
- (c) The law enforcement officer notifies the individual, as soon as practical, that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so, and;
- (d) The oral interception is being made as part of a video tape or digital recording.

The State Wiretap Act also makes it lawful for a law enforcement officer in uniform, or prominently displaying the officer's badge, 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. MAV/BWC COORDINATOR

The Chief of Police will designate a coordinator who is responsible for the overall implementation, administration, and execution of the MAV/BWC program. Issues related to MAV/BWC training, hardware, software, data retrieval requests, etc. shall be directed to the MAV/BWC Coordinator for appropriate action.

The MAV/BWC Coordinator is responsible for:

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for sharing, transferring, downloading, tagging or marking events.

Issued 8-21-2020

- (e) Maintaining logs to document any time BWC footage is viewed (length of time and by whom,) downloaded, transferred, and shared.
- (f) Maintaining logs to document any copying, deleting, or redacting of BWC footage.

V. MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time shall remain the property of the St. Michaels Police Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

VI. MEMBER RESPONSIBILITIES

MAV's and BWC's will only be used for official purposes.

At the beginning of their assigned shift and as soon as reasonably practical, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable (Md. Code CJ 10-402).

BWC devices are individually issued and assigned to members. Officers will only use the device assigned to them.

The activation policy contained in this document applies only to members/vehicles equipped with a MAV/BWC and does not place additional requirements on the duties of non-equipped members.

When using a BWC, the assigned member shall record his/her name, SMPD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Any member assigned to a non-uniformed position may wear an approved BWC at any time he/ she believes that such a device may be useful and may use it in compliance with the law (Md. Code CJ § 10-402.) Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members shall prominently display the officer's badge and wear the BWC in a conspicuous manner when in use. Articles of clothing containing the word "Police" alone do not satisfy this requirement. Members shall notify persons that they are being recorded, whenever reasonably practicable.

Any agency administrator (rank Lieutenant and above) not working solely in a manpower capacity may choose to wear a portable recorder but is not required to. When an agency administrator is working solely in a manpower capacity, being responsible for handling calls for service, he/she will wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable

Issued 8-21-2020

VII. TESTING / POWERING OF DEVICE

Prior to the beginning of each shift, each member shall perform a function test of their MAV/BWC in accordance with the manufacturer's recommendations.

Upon discovering a MAV/BWC malfunction, members shall immediately report the malfunction to a supervisor. Supervisors shall document the malfunction and assign the member an alternate vehicle and/or obtain a functioning device, if available, as soon as reasonably practical.

Members shall power on their assigned BWC prior to exiting St. Michaels Police Department Headquarters. Members shall power off their BWC upon entering St. Michaels Police Department Headquarters, unless engaged in official police related business requiring contact with the general public (ex: complaint in lobby, handling of prisoner, etc.)

A supervisor may power off and remove their MAV/BWC when involved in personnel matters or when speaking with members of the public, if in their best judgment, will inhibit positive communication.

VIII. NOTIFICATION

Except as otherwise exempted by law, notify individuals as soon as practical that he/she is being recorded unless it is unsafe, impractical, or impossible to do so by stating your name, agency, and that a recording is being made.

Example: "Hello, I am Officer Smith of the St. Michaels Police Department. I am advising you that our interaction is being recorded."

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

IX. REQUIRED ACTIVATION

The MAV system is designed to turn on whenever the vehicle's emergency lights are activated.

The system remains on until it is turned off manually.

Members wearing a BWC will activate the device as soon as possible unless it is unsafe, impractical or impossible.

The BWC must be activated during all law enforcement related encounters and activities such as, but not limited to the following:

- (a) Enforcement and investigative activity (e.g., traffic stops, searches, pursuits, arrests, field interviews, stop and frisk situations, etc.)
- (b) Self-initiated activity in which a member would normally notify Talbot Center.
- (c) Any other activity or citizen contact that becomes confrontational or adversarial in nature.
- (d) Emergency vehicle operations (If vehicle is not equipped with in-car video camera system.)
- (e) Custodial transports.

If a member is unable to activate the BWC at the initiation of a call for service or other activity that is investigative or enforcement in nature, the member shall activate the BWC at the first reasonable opportunity to do so. Once activated, the officer, when practical, will advise verbally on camera why the delay occurred. If not practical, the officer will articulate in their written report any irregularity.

This General Order amends and replaces General Order 19-0004

Issued 8-21-2020

Private residences should not be treated differently than other property for the purposes of recording.

X. DEACTIVATION

Once the MAV/BWC has been activated, members will continue to record until the member has left the scene and anticipates no further involvement in the event, the event has concluded, or a supervisor has authorized the recording to cease. An event will be deemed “concluded” when:

- (a) All arrests have been made and the detainees have been transported and released from custody.
- (b) The member leaves the scene and anticipates no further involvement in the event.
- (c) All witnesses and victims have been interviewed.
- (d) The continued recording will not serve to obtain additional evidence.
- (e) No further law enforcement action is likely to occur.
- (f) A supervisor has authorized that a recording may cease.

XI. DISCRETIONARY DEACTIVATION / MUTING

Members may deactivate a MAV/BWC in certain situations.

- (a) Deactivation of a MAV/BWC may be appropriate when a victim, witness, or other person wishes to make a statement or share information, but refuses to do so while being recorded, or requests that the camera be turned off. Officers may turn the camera off to obtain the statement. Prior to turning off the MAV/BWC, officers shall make an oral statement noting the reason. Additionally, officers should re-activate the MAV/BWC at the completion of the interview/statement if the incident being investigated is on-going.
- (b) When sensitive circumstances are present, officers will use discretion in turning off the MAV/BWC device. (Example - When interviewing the victim of a sexual assault.)
- (c) Where a recording would risk the safety of a confidential informant or undercover officer, officers will use discretion in turning off the MAV/BWC device.
- (d) Prior to turning off the MAV/BWC, unless the supervisor has stated on camera that it can be turned off, the member shall state orally into the MAV/BWC the reason for turning it off.

Members may mute a MAV/BWC in certain situations.

- (a) The MAV/BWC may be muted during conversations with officers or supervisors during information sharing sessions or when discussing tactics and strategy.
- (b) Prior to muting the MAV/BWC, unless the supervisor has stated on camera that it can be muted, the member shall state orally into the MAV/BWC the reason for muting the device.

When in doubt, members shall continue to audio and video record the interaction if it is reasonable to do so.

If the member is uncertain if it is appropriate to deactivate or mute the MAV/BWC, the member shall consult with their supervisor for guidance.

Issued 8-21-2020

XII. EXCEPTION FOR HEALTH CARE FACILITIES

Inside a medical facility, members shall not activate the BWC until meeting with the complainant/ victim on a call for service or when encountering an on-view incident which requires the exercise of law enforcement powers.

Members shall be aware of patients' rights to privacy when in hospital settings. Members shall not record patients during medical or psychological evaluations or treatments. When recording in hospitals and other medical facilities, members shall be careful to avoid recording persons other than the person of interest, or recording medical documents. However, as in any setting, if confronting a violent or assaultive suspect, or in an anticipated use of force instance, the member shall activate the BWC in advance of the encounter or as soon as reasonably practicable.

XIII. PROHIBITED USES

Members are prohibited from using MAV/BWC and MAV/BWC Data for personal use, and are prohibited from making personal copies of recordings created while on- duty or while acting in their official capacity.

Members will not access, obtain, attempt to access or obtain, or copy/convert/share for their personal use any recording produced by a MAV/BWC's. Employees will not upload BWC's recordings to public or social media sites.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

A member shall not activate the MAV/BWC to:

- (a) Record areas where there is a reasonable expectation of privacy including but not limited to medical facilities and schools except when a situation arises that the officer believes serves a legitimate law enforcement purpose, such as a call for service or an on-view incident occurs.
- (b) Surreptitiously record conversations of citizens and employees.
- (c) Record conversations of fellow officers or civilian employees without their knowledge and consent during administrative and non-enforcement related activities.
- (d) Record court proceedings, unless an on-view incident occurs.
- (e) Record non-work-related personal activity.
- (f) Record strip searches.
- (g) Record events within 500 feet of bomb threat scenes.
- (h) Record outside the State of Maryland.
- (i) Record a constitutionally protected activity with the intent to identify persons present at the activity who are not suspected of being engaged in illegal activity or in need of assistance.
- (j) Record legally privileged communications (attorney/client, doctor/patient, etc.)

A member shall not use MAV/BWC data to:

- (a) Create a database or pool of mug shots.
- (b) Use images as fillers in photo arrays.

Issued 8-21-2020

- (c) Be used to search using facial or voice recognition software.

Note: This subsection does not prohibit the St. Michaels Police Department from using recognition software to analyze the recording of a particular incident when a supervisory member has reason to believe that a specific suspect or person in need of assistance may be the subject of a particular recording.

When a prohibited use of the MAV/BWC is encountered during an active recording, members will deactivate their MAV/BWC when it is safe, practical and possible to do so.

XIV. IDENTIFICATION AND PRESERVATION OF RECORDINGS

Prior to the end of his or her shift, the member shall ensure the recorded data is tagged with the following information:

- (a) Any related CAD Call Numbers or Incident Numbers.
- (b) The type of incident (e.g., citizen contact, investigative stop, pat-down, arrest, use of force, consensual search, non-consensual search, search warrant, etc.)
- (c) Category Type.

Additionally, a member should tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.
- (g) Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter.

XV. UPLOADING AND ACCOUNTABILITY OF BWC CONTECT

MAV/BWC footage will be uploaded consistent with manufacturer's specifications.

Supervisors will ensure that all MAV/BWC footage is uploaded without unnecessary delay, and that no officer is dismissed before all MAV/BWC footage is uploaded.

Should any footage be unaccounted for, missing or damaged at the end of a shift, the responsible supervisor will immediately investigate and submit a confidential memo to their Commander.

XVI. REPORTING REQUIREMENTS

Members shall indicate in their Incident Reports if MAV/BWC data exists.

Issued 8-21-2020

XVII. CRITICAL INCIDENT PROCEDURE

The following procedure ensures that all MAV/BWC footage which potentially captures a critical incident is secured and its chain of custody preserved.

Critical incidents include:

- (a) A seriously injured officer.
- (b) A use of force resulting in serious bodily injury or death.
- (c) Allegations of misconduct.
- (d) In-custody death.
- (e) Any incident which, in the professional judgment of the Supervisor and/or Commander, is deemed necessary.

The Supervisor and/or Commander shall immediately take possession of and secure any MAV/ BWC video which potentially captures a critical incident.

Upon securing the MAV/BWC from the involved officer, the Supervisor and/or Commander shall ensure the video footage is uploaded and categorized as "Restricted." The Police Chief or his designees may approve access to other individuals or entities if appropriate.

XVIII. SECURITY

Members are strictly prohibited from sharing any MAV/BWC log-in information or passwords.

Access to any MAV/BWC data will be done only by means of a member's own credentials furnished by the MAV/BWC Coordinator and only by means of the authorized MAV/BWC software.

Only members who successfully completed MAV/BWC training and possess valid MAV/BWC login credentials are authorized to view MAV/BWC footage.

Accessing, copying or disseminating files for non-law enforcement purposes is strictly prohibited unless authorized by the Chief of Police. All downloads or copies of MAV/BWC footage must be authorized by the MAV/BWC Coordinator.

Access to MAV/BWC footage shall be controlled through a secure location consistent with CJIS regulations.

Members are explicitly prohibited from tampering, editing, deleting, and/or copying data stored in the MAV/BWC and the hosted storage repository.

Unauthorized dissemination of MAV/BWC recordings may result in disciplinary action.

XIX. RETENTION

The St. Michaels Police Department shall retain the unedited original version of MAV/BWC footage for a minimum of 5 years, and shall log any time the footage is viewed, for what length of time, and by whom. The MAV/BWC Coordinator shall document any copying, sharing, downloading, redaction, or deletion of the footage.

Issued 8-21-2020

XX. DELETION OF ACCIDENTAL OR MISTAKEN RECORDINGS

The MAV/BWC Coordinator may authorize the deletion of recordings that may compromise the modesty or dignity of a member, as long as there is no duty related reason to retain the recording.

In the event of an accidental or mistaken activation of the MAV/BWC where the resulting recording has no investigative or evidentiary value, members may submit a Video Recording Deletion request to their immediate supervisor for approval/disapproval.

Approved requests shall be forwarded to the MAV/BWC Coordinator. The MAV/BWC Coordinator shall review all accidental or mistaken recordings and determine whether or not the recording had an official purpose. Recordings deemed by the MAV/BWC Coordinator to hold no official purpose or evidentiary value shall then be deleted.

A copy of the Video Recording Deletion Request shall be maintained by the MAV/BWC Coordinator.

XXI. REVIEW OF RECORDINGS

Members may review their MAV/BWC recordings for the purpose of:

- (a) Assisting them in preparing an accurate written report (Members should not use the fact that a recording was made as a reason to write a less detailed report.)
- (b) Making sure the MAV/BWC's system is working properly.
- (c) Reviewing / critiquing his/her own performance.
- (d) Reviewing /preparing for court.

Supervisors may review MAV/BWC data capturing the performance of a subordinate under their command for the purpose of:

- (a) Conducting an investigation.
- (b) Monitoring a subordinate's professional conduct/performance.
- (c) Training.
- (d) When advancing the best interest of the public, the St. Michaels Police Department, or the member.

A supervisor must review the MAV/BWC data of a member(s) when:

- (a) The member is injured or another member is injured or killed during the performance of their duties.
- (b) There is a reportable use of force by the recording member or another member.
- (c) The member is involved in an incident that results in an injury to suspect/arrestee requiring hospitalization or a fatality including, but not limited to, in-custody deaths and crashes or vehicular pursuits.
- (d) The member has informed the supervisor they believe that the event may result in a complaint.
- (e) As directed by their Commander.

This General Order amends and replaces General Order 19-0004

Issued 8-21-2020

Recorded files may also be reviewed:

- (a) Upon approval by a Commander, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal/civil investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) Members of the States Attorney's Office or United States' Attorney's Office provided it is for law enforcement purposes.
- (e) Town Attorney.
- (f) Members of the public through Maryland Public Information Act (MPIA) requests.

Any member reviewing recordings shall document the purpose of the review.

XXII. DISSEMINATION

Recordings will not be disseminated or shared outside the St. Michaels Police Department or approved partner agencies without written permission by the Chief of Police or their designee.

Requests for camera footage by the States Attorney's Office will be handled by the Records Section.

All recordings should be reviewed by MAV/BWC Coordinator and Chief of Police prior to public release (see the Records Maintenance and Release Policy.) Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the Court.

XXIII. PRESERVATION OF RECORDINGS

Officers who reasonably believe that a MAV/BWC recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer or against the St. Michaels Police Department should indicate this in their Incident Report. Officers should ensure relevant recordings are uploaded.

Any officer who believes they may need a video beyond the retention period will file the request through his supervisor. The request will then be forwarded to the MAV/BWC Coordinator.

XXIV. MAINTENANCE PROCEDURE

The care and security of MAV/BWC is the responsibility of the officer assigned to that vehicle/ equipment and such equipment will be maintained and operated according to manufacturer's recommendations.

Only approved audio/video equipment will be installed into St. Michaels Police Department vehicles and may only be installed by authorized personnel.

When maintenance or repairs are required to the MAV/BWC system, the officer will notify their supervisor. The supervisor will then in turn notify the MAV/BWC Coordinator. The Coordinator will document the repairs performed on department MAV/BWC systems.

This General Order amends and replaces General Order 19-0004

Issued 8-21-2020

The vehicle windshield should be kept clean inside and out to optimize the clarity of the video. No items will be placed on or over the cameras. No items will be placed in front of the cameras. Items on the dashboard may create a glare and reduce camera performance.

Use a soft, damp cloth to clean the surface of cameras. Do not use harsh cleaners or solvents. Only optical quality lens cleaner and anti-fog wipes provided by the St. Michaels Police Department will be used on cameras.

XXVI. MARYLAND PUBLIC INFORMATION ACT (MPIA) REQUESTS

Members of the public may request to obtain MAV/BWC footage by completing a MPIA Request Form. Request for MAV/BWC footage shall be granted or denied based upon the Maryland Public Information Act (MPIA) Annotated Code of Maryland, General Provisions Article, 4-101, et seq.

XXVII. POSTING OF POLICY

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

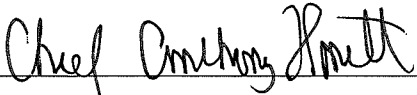
XXVIII. TRAINING

Members should receive periodic training on the operation of body-worn cameras as well as this policy. Training should include methods of providing notice that a recording is being made to persons with limited English proficiency or persons with a disability that renders them otherwise unable to understand (see the Limited English Proficiency Services and Communications with Persons with Disabilities policies.)

XXIX. SECONDARY EMPLOYMENT

Members shall use their issued BWC while engaged in authorized uniformed secondary employment.

Members will not use their BWC while working non-uniformed secondary employment.



Chief of Police

8-21-20

Date