

# MEDINA POLICE DEPARTMENT GENERAL ORDER

**ORDER NO:** 2019-045

**SUBJECT:** Body-Worn Cameras

**EFFECTIVE DATE:** 3rd, April 2019

**RESCINDS ORDER NO:**

**DISTRIBUTION:** Sworn Police Personnel

**PURPOSE:** Body-Worn Cameras are designed to assist and compliment officers in the performance of their duties. Body-Worn Cameras are used to record certain duty related activities, thereby creating a visual and/or audio record of the incident as a supplement to the officer's report. It is the purpose of this policy to provide officers with a clear direction for the use of body-worn cameras. **This policy is not intended to describe every possible situation where the camera may be used; however, there are many situations where the use of the body-worn camera recording is recommended.**

I. **POLICY:**

Body-Worn Cameras will be used as outlined in this General Order. The Medina Police Department will make every effort to electronically capture video and audio footage of all incidents and other police department related matters for the purpose of evidence collection and to enhance criminal prosecutions. The use of body-worn cameras will also aid in the Medina Police Department's internal investigation either in a civil or criminal capacity.

II. **DEFINITIONS:**

- A. **Body-Worn Camera (BWC):** Overt mobile video/audio capturing device issued by the Medina Police Department (MPD) designed to be worn by MPD employees in the course of their duties.
- B. **Body-Worn Camera Recording Program Management Team:** Will consist of administration/supervisory staff assigned by the Chief of Police, whom are responsible to supervise and coordinate the administrative duties relating to the Video/Audio Recording Program and will be granted full access with data management rights.
- C. **BWC Recordings:** Video/Audio recordings, associated metadata from the Body-Worn Cameras.

- D. **BWC System:** Body-Worn Camera equipment, networks, software, including storage of recordings which is housed in the Medina police Department.
- E. **BWC System Management Team:** An MPD employee(s) and/or Information Technology (IT) assigned by the Chief of Police will work closely with the Chief of Police in managing data collected by the body cams in the data storage system.
- F. **Critical Incident:** An unusual occurrence or event that requires a coordinated law enforcement response to protect identified potential victims, general public safety, and police. This includes barricaded armed suspects; active killers or snipers; hostage situations; violent protests, demonstrations, or other civil disturbances; transportation disasters (e.g. plane crash, train derailment, etc.); weather disasters; and major HAZ MAT situations.
- G. **Digital Media Evidence (DME):** BWC recordings and associated metadata that may be utilized as evidence.
- H. **Docking Stations:** Hardware connected to the MPD's BWC System that is designed to offload recordings contained on the BWC and also recharge the BWC.
- I. **Enforcement Activities:** For the purpose of this General Order, "enforcement activities" are (1) **arrests** (including issuance of appearance tickets and mental hygiene arrests); (2) **pursuits** (driving and foot); (3) **detention/stop of persons and vehicles** (includes street stops, traffic stops, and field interviews); (4) **force** (use of force or deadly physical force as defined by NY Penal Law 10.00-11).
- J. **Mandatory Recording:** Any event or activity that requires BWC recording without exception, i.e., upon direction of supervisor/O.I.C., and "enforcement activities" as defined in this General Order.
- K. **Metadata:** Data entered into or generated by the BWC that provides context or additional information about the BWC recording.
- L. **Optional Recording:** Any event or activity that does not require BWC recording unless a specific exception exists.
- M. **Standard Recording:** Any event or activity that requires BWC recording unless a specific exception exists.
- N. **Prohibited Recording:** An event or incident for which BWC recording is prohibited.

- O. **Serious Incident:** Any incident or event which involves or is likely to involve use of deadly physical force by a police officer, or results in serious physical injury or death to any person as a result of police action or involvement, including use of force or deadly physical force, vehicle or foot pursuits, motor vehicle accidents, other accidental injury or death, or any death or serious physical injury occurring while in police custody.
- P. **Tag:** The process used to label an individual BWC recording using software and issued equipment in accordance with retention categories established by MPD, and with the assigned CR#.

### III. USE OF BODY-WORN CAMERAS

- A. MPD will utilize BWCs in accordance with law, this Order, and other applicable departmental policies, procedures, rules, and regulations.
- B. BWCs and all associated equipment and software, and all recordings and other data produced by the BWC system are the sole property of the Village and exist for the sole use of MPD.
- C. BWCs will be used in accordance with this Order and other applicable departmental policies, procedures, rules, and regulations.
- D. Members may use BWCs only for official MPD duties. Members may not use BWC for personal reasons, additional employment, or any other non-MPD purpose.
- E. BWCs' recordings will not replace required reports or other required documentation.
- F. No video or audio recording produced by a BWC will be copied, duplicated, downloaded, converted, or retained except as authorized for official MPD purposes.
- G. Members will not post BWCs' recordings to the Internet, social media sites, or the media, or otherwise disseminate BWC recordings in any way unless specifically authorized by the Chief of Police.
- H. MPD will review and retain BWC recordings in accordance with the retention standards established in this order.
- I. No MPD employee will change the settings and functions of a BWC, or alter the operation of any BWC or attempt to do the same unless assigned as a System Administrator and/or the Chief of Police and specifically authorized to do so by departmental policy.

- J. No MPD employee will use an electronic device or any other means in order to intentionally interfere with or alter the capability or operation of a BWC or any component of the BWC System.
- K. No MPD employee will alter, tamper with, delete, damage, or destroy any BWC recording or attempt to do the same unless assigned as a System Administrator and/or the Chief of Police specifically authorized to do so by departmental policy.
- L. No MPD employee will wear or use a privately owned BWC, or any other BWC not issued by the Department, while performing any duties on behalf of MPD.
- M. BWC System Administrator and/or the Chief of Police will be responsible to administer MPD's BWC Program.

#### IV. ASSIGNMENT OF BODY-WORN CAMERAS

- A. The following personnel will utilize BWCs as available:
  - 1. All Police Officers, Sergeants, and Lieutenants assigned to patrol duties or other details and functions conducted by MPD
  - 2. Other personnel as directed by the Chief of Police.
  - 3. BWC will be secured to the officer at the beginning of each shift on the center of their body armor camera tab. If there is no body armor tab then the camera will be placed in the center most portion of their body available.

#### V. RECORDING REQUIREMENTS AND RESTRICTIONS

- A. BWCs will be activated and record all activities, and all contact with persons, in the course of performing police duties as soon as it is safe and practical to do so, as set forth in this Order.
  - 1. Members will activate recording on the BWC preferably upon being dispatched and prior to exiting their police vehicle, or prior to commencing any activity if on foot patrol, as set forth below.
  - 2. Members will immediately activate the BWC when required unless it is not safe and practical, i.e., the member cannot immediately activate the BWC due to an imminent threat to the member's safety, physical resistance, flight, or other factors rendering immediate activation impractical. In such cases, ***the member will activate the BWC as soon as possible.***

B. Mandatory BWC Recording. Members will activate BWC and record all activities, and contact with persons, in the course of performing or when present at any enforcement activity, or upon direction of a supervisor. ***There are no exceptions to the requirement to record mandatory events.***

1. "Enforcement activities" are:
  - a. ***arrests*** (including issuance of appearance tickets and mental hygiene arrests);
  - b. ***pursuits*** (*Pursuit Driving*, and foot pursuits);
  - c. ***detentions/stops of persons and vehicles*** (includes street stops, traffic stops, persons on bicycles, and field interviews);
  - d. ***force*** (use of force or deadly physical force as defined by NY Penal Law § 10.00-11 and Departmental Orders).

C. Standard BWC Recordings. Unless a specific exception exists (*see* Section E. below), Members will activate BWC and record all activities, and contact with persons, in the course of performing police duties. This includes all calls for service and self-initiated police activity unless listed as Optional below.

D. Optional BWC Recording. Unless a mandatory or standard event arises which must be recorded, members are not required to record the following activities with a BWC, but **may** do so if the member believes it serves a legitimate law enforcement purpose:

1. While driving and/or with a passenger during routine vehicle patrol.  
**(It is highly encouraged, but not mandatory to have the BWC powered off while driving routine patrol to conserve BWC power. Standby mode is sufficient)**
2. Traffic control and traffic points.
3. Foot Patrol, directed patrol, and special attention.
4. Completing reports when no longer in presence of civilians (e.g., in a police car or in a police facility).
5. Interviewing cooperative victims, witnesses, and persons with knowledge in a private residence or a police facility.
6. Conducting general photo queries, photo arrays, and physical lineups.
7. While conducting parking enforcement if no civilians are present.
8. Completing security surveys
9. Conducting a neighborhood canvass.
10. During community or neighborhood meetings; or meetings of government bodies or agencies (e.g., Village Board meetings,).

- a. Note: members may demonstrate the operation of BWC at community meetings if requested.
11. Routine walk-up requests for information or assistance (e.g., giving directions).
12. Civilian Transports.

E. Exceptions to Standard and Optional Recording Requirements.

1. Sensitive Locations. Members will **not** record with BWC in the following locations **unless members anticipate or are engaging in an enforcement activity** as defined by this Order:
  - a. Victim support or advocacy agencies (e.g., Child Advocacy Center, etc.).
  - b. In any courtroom or grand jury room.
  - c. Locker rooms, bathrooms, or other locations where persons are expected to be disrobed or in a state of undress.
2. Civilian Requests to Stop Recording. Requests by civilians to stop recording with a BWC will be handled as follows:
  - a. If the situation involves an enforcement activity (mandatory recording event), the member ***will not grant the request and will continue recording.***
  - b. If the situation involves an Optional Recording Event, members will record the verbal request to stop recording, and may exercise their discretion based on the circumstances in deciding to continue or stop recording.
  - c. If the requesting person is a prisoner who is offering information about criminal activity but will not do so if recorded, the member may briefly stop recording while the information is provided, and must resume recording once the information is given.

***Note: If the member stops recording upon request of a civilian, then he or she must resume recording as soon as possible if he or she anticipates or commences an enforcement activity.***

F. Prohibited BWC Recording. MPD members will not activate or record with a BWC under the following circumstances, and will deactivate and stop recording if any of these circumstances arise.

1. Members will **not** record with BWC internal police conversations either openly or surreptitiously, including conversations among members or other MPD employees, conversations between supervisors and subordinates, or conversations relating to personnel matters including but not limited to performance evaluations, selection interviews, discipline, or counseling.
2. Members will **not** record with BWC interviews relating to departmental investigations being conducted.
3. Members will **not** record with BWC while in a locker room or

- bathroom in an MPD facility, or while using any bathroom.
4. Members will **not** record with BWC personal, non-police conversations with other members or other Village employees that do not occur in the course of an official police duty, e.g., conversations during personal breaks.
  5. Members will **not** utilize BWC in lieu of using the designated recording facilities in an approved interview rooms while recording custodial interviews or interrogations. However, in the event of a malfunction or other unavailability of a designated recording facility, the use of a BWC is necessary to comply with the recording requirements. In such cases the member will note the circumstances in his or her report.
  6. Members will **not** record with a BWC while attending internal MPD meetings, other law enforcement meetings, or meetings with prosecutors.
  7. Members will **not** record strip searches and body cavity searches.

G. Civilian Requests to Record. If a civilian requests that their interaction is recorded, members will do so unless it is prohibited under this policy.

#### H. Special Circumstances

1. Members are **not** required to record meetings or conversations with compensated confidential informants, street sources, citizen sources, or non-compensated informants.
2. Members are **not** required to wear or use BWC while engaged in undercover activities, decoy operations, plainclothes surveillances, or other non-uniform and covert police activities.
3. Members will **not** record with BWC during roll calls or operational briefings unless directed by a supervisor. If BWC recording is authorized the supervisor will clearly inform members that the BWC is recording.
4. Members responding or assigned to a **Critical Incident** will follow the BWC recording requirements in this Order to the extent feasible under the circumstances, or follow supervisory directives regarding use of BWC.
5. Members assigned to the following **Special Teams** will not record with a BWC while engaged in Team operational activities unless authorized by the Chief of Police or the Team Commander: Special Weapons and Tactics (SWAT).
6. Personnel engaged in activities, including protests, demonstrations, and civil disorder situations will record with assigned BWC unless directed otherwise by the Chief of Police.
7. Members assigned to a **Command Post (CP)** will record with a BWC only if specifically directed to do so by the Incident Commander (IC) or higher authority. If BWC recording is authorized, the Incident Commander or designee will clearly inform all persons in the CP that

BWC are recording.

8. Members **may** use the BWC to record departmental **training** activities if authorized by the lead instructor of the training or the Commanding Officer of a Special Team.

I. Recording Notice Guidelines

1. Members are encouraged to inform persons they are recording with a BWC unless they encounter physical resistance, flight, or other factors rendering such notice unsafe or impractical (e.g. “Ma’am/Sir, I am advising you that our interaction is being recorded.”).
2. If an individual asks a member if he or she is being recorded by a BWC the member will answer truthfully unless factors exist that would render such notice unsafe or impractical.
3. Members should inform personnel from other law enforcement agencies and other first responders (e.g., firefighters, emergency medical personnel, etc.) they are recording with a BWC.

VI. EMPLOYEE ACCESS TO BWC RECORDINGS

- A. Employees may review and use BWC recordings only for official MPD duties, to include:

1. Members may view BWC recordings from BWC that they have recorded if available to assist in accurate report writing with exception regarding serious incidents (e.g., officer involved shootings) a statement/report will be completed prior to the officer watching the BWC recordings;

**Note:** *The purpose of using BWC recordings in writing reports, for none serious incidents, is to maximize the accuracy of the report—not to replace the member’s independent recollection and perception of an event.*

2. Conducting criminal investigations;
3. Conducting supervisory duties;
4. Preparing for testimony relating to their official police duties;
5. Managing the BWC recordings, e.g., tagging;
6. Training upon approval of a Lieutenant or above
7. Performing other official MPD duties as authorized by departmental policy or by competent authority.

B. Department Investigations of Members

1. Personnel assigned to an internal investigation will be given direct access to the BWC System and are authorized to access and copy BWC recordings as needed to perform their duties. The Chief of Police may allow civilians to view BWC recordings in handling complaints against Department personnel.

VII. PROCEDURES FOR USE OF BWC



- A. Members will adhere to the following procedures for use of the BWC unless stated otherwise in this Order:
1. Upon reporting for duty, members will retrieve their assigned BWC from the docking station and check its operation to ensure it is charged, working properly, and the clip is not damaged. Members will also check to ensure that the BWC does not contain data from their prior tour of duty. If there is any problems with the BWC the member will notify a supervisor or shift Senior Officer. The supervisor or senior officer will notify the Lieutenant.
  2. Members will affix the BWC to the center (in the area between breast pockets of uniform shirt) of their Body Armor outer carrier. This can be accomplished via a tab being attached to the carrier or magnetic device. If no outer carrier then outermost garment of uniform same location.
  3. When recording, the member will activate the BWC and record all activities, and all contact with persons in the course of performing police duties as soon as it is safe and practical to do so, preferably upon being dispatched and prior to exiting their police vehicle, or prior to commencing any activity if on foot patrol.
  4. Members will continue to record with the BWC until the completion of the event or incident in question, or deciding to end recording in accordance with this Order. Prior to deactivating the BWC, the member should make a recorded verbal statement noting that the recording is ending, unless unsafe or impractical to do so.
  5. Request to view BWC recordings. Officers are not required to allow civilians to view BWC recordings. With permission from the Chief of Police supervisors may allow civilians to view BWC recordings in responding to complaints, or other inquiries.
  6. If the BWC malfunctions or other problems arise during the tour of duty the member will notify a supervisor (O.I.C. or ranking officer) as soon as possible. The supervisor will take the BWC out of circulation and arrange for a replacement if a spare is available (BWCs assigned to the part time officer or chief are not being utilized they will be designated as the spare BWC for such), and notify a Lieutenant or above of the malfunction.
  7. During the tour of duty members will monitor the charge level on the BWC. If the Battery level is low then the BWC unit will be placed in the docking station so that the Videos are transferred and the battery is recharged. **\*\*\*It is encouraged that when the BWC is not in operation that the power be turned off to conserve battery life while patrolling in a patrol vehicle.\*\*\***
  8. Upon completion of the tour of duty and prior to securing from work members will ensure that BWC recordings are secure. They will then insert the BWC into the designated docking station, which will

automatically download/transfer BWC recordings into the MPD's secure internal on-site BWC storage system, and charge the BWC unit.

9. **Every** video captured by members of MPD that contains evidentiary value, was a part of a violation or crime investigation or contains other police activities that are of importance shall be categorized and a CR# issued to the video or audio file. Upon completion of the tour of duty and prior to securing from work members will ensure that BWC recordings are categorized by choosing the most appropriate category and the CR# associated with the case.
10. In the event a member becomes ill or injured during the tour of duty a supervisor or O.I.C. will retrieve the BWC and arrange to return it to the designated docking station.
11. Members will turn in their BWC prior to or at the end of their tour of duty by inserting the BWC into the designated slot in the docking station.
12. Members will adhere to the BWC docking, download, and viewing procedure set forth in the attached supplement to this policy. See attached supplement 2019-045-A.

#### VIII. DOCUMENTATION OF BWC RECORDINGS

- A. Members will document the existence of pertinent BWC recordings in various departmental reports and forms.
  1. The Incident Report (IR) and/or Arrest Report (AR) should contain in the narrative language that indicates recording from BWC.
  2. 710.30 Notice. Whenever completing a 710.30 notice (NYCPL 710.30-1 & 2) to note the existence of a defendant statement or an eyewitness identification procedure, members will note the existence of any BWC recording that contains the statement or eyewitness identification procedure.

#### IX. BWC PROCEDURES FOR SERIOUS INCIDENTS

- A. In the event of a serious incident as defined in this Order personnel will adhere to the following procedures:
  1. As soon as the scene is rendered safe and under control, an uninvolved responding supervisor will:
    - a. Identify which, if any, of the involved and witness members have a BWC recording.
    - b. Take possession of the BWC as soon as possible and ensure that it is not recording. The supervisor will maintain possession of the BWC until directed by the Incident Commander or ranking Command Officer on scene to turn them over to a designated person.
    - c. Document in the Incident Report, the following information:
      - i. identity of the member(s) from whom a BWC was taken;

- ii. serial number(s) of the BWCs;
    - iii. date, time, and location the supervisor took possession of the BWC;
    - iv. identity of the Incident Commander or ranking Command Officer who directs the supervisor to turn over the BWC
    - v. person who took possession of the BWC from the supervisor, to include the date, time, and location this occurred.
  - 2. The Incident Commander or Ranking Command Officer will ensure that
    - a supervisor responds to the hospital to retrieve any BWC assigned to an injured member who has been removed from the scene for medical treatment.
  - 3. Members wearing a BWC who respond to the scene of a serious incident will activate and record with the BWC in accordance with this Order.
  - 4. Members may utilize a BWC to record the scene as they deem appropriate or as directed by higher authority. Members will document use of their BWC in accordance with this Order.
- B. The Incident Commander or Ranking Command Officer will determine the urgency of retrieving BWC recordings from the BWC. If deemed urgent, he or she will arrange for a BWC System Administrator to respond immediately to assist. For example, if an unknown subject injures an officer, or a potentially dangerous subject is at large, it may be imperative to retrieve BWC recordings as soon as possible to:
- 1. identify the perpetrator and/or accomplices;
  - 2. determine the type of weapon(s) involved;
  - 3. identify witnesses; and,
  - 4. identify other crucial information, e.g., description of suspect vehicle, direction of escape, etc.

## X. ADMINISTRATION OF THE BWC PROGRAM

- A. A Supervisor, assigned by the Chief of Police, will be responsible to administer MPD's BWC Program. The duties and responsibilities of the supervisor assigned to this position in performing this function include but are not limited to:
- 1. liaison with BWC vendor(s) including return, repair, and replacement of BWC;
  - 2. liaison and coordination with IT personnel on BWC related matters;
  - 3. maintaining an accurate and up-to-date inventory of BWC to include personnel and location assigned;
  - 4. providing access or copies of BWC recordings to MPD personnel and components as authorized by departmental policy or competent authority;
  - 5. coordinating response within MPD to subpoenas, court orders, Freedom

- of Information Law (FOIL) requests and other requests for copies of BWC recordings in accordance with established procedures;
6. re-categorizing, assigning secondary categories, and assigning security levels to BWC recordings;
  7. redacting sensitive, confidential, privileged, or otherwise protected portions of BWC recordings as needed;
  8. responding as directed to serious incidents or other events to assist with access to and/or copies of BWC recordings;
  9. conducting an annual audit to assess compliance with established policies and procedures relating to the BWC Program, and coordinate additional audits by designated MPD personnel;
  10. compiling reports and documentation relating to the BWC Program;
  11. coordinating review of stored BWC recordings in accordance with established policies and procedures
  12. reviewing BWC program, technology, systems, policies, and procedures and recommend improvements;
  13. managing the BWC application;
  14. liaison and communication with individuals and organizations in the community on the BWC program;
  15. other duties related to the BWC Program as assigned.

#### XI. REVIEW, RETENTION, COPYING, AND DELETION OF BWC RECORDINGS

- A. BWC recordings will be reviewed and retained as follows:
  - i: All Video and Audio recordings will be held by MPD indefinitely unless categorized as **Uncategorized (purged after 1 year)**.
  - ii: All Video and Audio recordings that contain evidentiary material and that were categorized will be held indefinitely.
- B. Deletion of Recordings “Recorded in Error.”
  1. In the event a member mistakenly or inadvertently records an activity or event that should not have been recorded under departmental policy (e.g., the member inadvertently activates the BWC during a bathroom break), the member will make a Supervisor aware of the recording.
  2. Notification from the member will be made as soon as possible, and will identify the recording in question by date, time, location, and CR# (if any), explaining the circumstances, and requesting deletion of the erroneous recording.
  3. The Supervisor designee will:
    - a. determine whether the recording was done in error;
    - b. if recorded in error, and there is no reason to retain the recording (see below), delete the video from the BWC System or arrange for a System Administrator to do so;
    - c. if not recorded in error (i.e., recorded in accordance with policy), re-categorize the recording to the appropriate category or arrange for a System Administrator to do so;
    - d. notify the requesting member of the disposition of the request; and

- e. ensure a file exists of all documentation relating to deletion requests.
4. Circumstances may arise in which an event or activity may be recorded in error under departmental policy, but cannot be deleted because it may constitute evidence, or may trigger a legal disclosure or retention requirement. For example, while a strip search should not be recorded under departmental policy, the recording may nonetheless constitute evidence and cannot be deleted. Accordingly, if a deletion request involves a recording that may need to be retained for legal reasons, the Commanding Officer or designee will:
  - a. consult such other persons as needed, e.g., the Village Legal Counsel, the District Attorney, other MPD personnel, etc.;
  - b. if determined the recording cannot be deleted for legal reasons, re-categorize the recording to the appropriate category or arrange for a System Administrator to do so;
  - c. limit access to the recording in the BWC System, or arrange for a System Administrator to do so; and
  - d. notify the requesting member of the disposition of the request.

## XII. INTERNAL MPD COPIES OF BWC RECORDINGS

- A. Copies of BWC recordings will be provided to MPD members or other Village employees **only for official MPD or Village functions as needed**. MPD members and employees who receive copies of BWC recordings will not disseminate or display them to non-Village employees except as authorized
  1. by this Policy or approved in writing by the Chief of Police.
  2. members may make or request copies of BWC recordings as follows for operational departmental use (e.g., investigations, crime analysis, etc.). If the member is not authorized to make a copy of the recording in question,
    - i. a supervisor or a System Administrator may provide a copy of the recording. Any questions or concerns whether the copy should be provided will be referred to the Chief of Police.
  3. Members who want a copy of a BWC recording for non-operational departmental use (e.g., training), will direct a request to the Lieutenant or Chief of Police identifying the recording and explaining the intended use of the copy. If the Lieutenant or Chief of Police determines that there is a valid nonoperational use for the BWC recording, the Supervisor will provide a copy to the requesting member.

## XIII. DISCLOSURE OF BWC RECORDINGS IN LEGAL PROCEEDINGS

- A. Criminal Cases Prosecuted by the Orleans County District Attorney's Office (OCDA).

- B. MPD will coordinate with the OCDA to provide them with BWC recordings stored in MPD's BWC System needed for criminal prosecutions undertaken by OCDA.
- C. OCDA will directly provide defendants with copies of BWC recordings in criminal cases as it deems necessary.
- D. OCDA will be responsible for any required redactions in BWC recordings it provides to defendants.
- E. Other Criminal Cases.
  - 1. Requests by other prosecuting offices (e.g., U.S. Attorney's Office, New York State Attorney General's Office, etc.), will be referred to the Lieutenant or the Chief of Police.
  - 2. The Lieutenant or Chief of Police will identify BWC recordings that may be responsive to the request, and provide copies of the requested recordings to the prosecutor.
  - 3. The Lieutenant or Chief of Police will be responsible for any necessary redactions, as requested by the prosecutor.
- F. Defense Subpoenas or Demands in Criminal Cases.
  - 1. Defense subpoenas or demands for BWC recordings will be referred to the Lieutenant or Chief of Police.
  - 2. The Lieutenant or Chief of Police will consult with the Village Legal Counsel and/or the appropriate prosecuting office.
  - 3. The Lieutenant or Chief of Police will identify BWC recordings that may be responsive to the defense subpoena or demand.
  - 4. The Lieutenant or Chief of Police will provide copies as advised by the Village Legal Counsel and/or the prosecuting office.
  - 5. Prior to providing any copies, the Lieutenant or Chief of Police will review the BWC recording and determine if any redactions may be required. The Lieutenant or Chief of Police will consult with the Village Legal Counsel and/or the appropriate prosecuting office and follow legal guidance regarding any required redactions.
  - 6. The Lieutenant or Chief of Police will provide the appropriate prosecuting office with copies of any BWC recording provided to the defense.
- E. Civil and Administrative (Non-Criminal) Proceedings
  - 1. Requests, subpoenas, court orders, or other demands for BWC recordings in civil, administrative, or other non-criminal proceedings will be referred to Lieutenant or Chief of Police.
  - 2. The Lieutenant or Chief of Police will consult with the Village Legal Counsel in such cases.
  - 3. The Lieutenant or Chief of Police will identify BWC recordings that may be responsive to the request.
  - 4. The Lieutenant or Chief of Police will provide copies as advised by the Village Legal Counsel.

5. Prior to providing any copies, The Lieutenant or Chief of Police will review the BWC recording and determine if any redactions may be required. The Lieutenant or Chief of Police will consult with the Village Legal Counsel and follow legal guidance regarding any required redactions.

#### XIV. FREEDOM OF INFORMATION LAW (FOIL) REQUESTS

- A. BWC recordings may be subject to requests for release under New York's Freedom of Information Law (FOIL) (Public Officers Law, Article 6; §§ 84 -90). FOIL is based upon a presumption of access that requires agencies to make all records available, except to the extent that records or portions thereof fall within one or more grounds for denial appearing in the statute.
- B. FOIL does contain exemptions intended to protect safety and privacy, and to protect the integrity of law enforcement operations. Thus, MPD may withhold those portions of the records that would interfere with an investigation or judicial proceedings. Denial of FOIL requests, or redactions, are permitted, for example, in the following circumstances:
  1. are specifically exempted from disclosure by state or federal statute;
  2. if disclosed would constitute an unwarranted invasion of personal privacy for anyone who may appear in the recording;
  3. are compiled for law enforcement purposes and which, if disclosed, would:
    - a. interfere with law enforcement investigations or judicial proceedings;
    - b. deprive a person of a right to a fair trial or impartial adjudication;
    - c. identify a confidential source or disclose confidential information relating to a criminal investigation; or
    - d. reveal criminal investigative techniques or procedures, except routine techniques and procedures;
  4. if disclosed could endanger the life or safety of any person.

**Note: These are examples of potential FOIL disclosure exemptions that may apply to BWC recordings—it is not a complete list of disclosure exemptions under FOIL. Personnel should consult the Village Legal Counsel on FOIL questions and issues.**
- C. MPD bears the burden to demonstrate that the requested material qualifies for exemption from FOIL disclosure. In doing so, MPD may not rely on general categories of material, but ***must cite a specific and particularized justification to establish a valid exemption.***
- D. The following procedures will apply to FOIL request for BWC recordings:
  1. FOIL requests for BWC recordings will be referred to the Chief of Police.
  2. The Chief of Police will coordinate a response with the Village Legal Counsel.

3. The Chief of Police will identify BWC recordings that may be responsive to the FOIL request.
4. The Village Legal Counsel will provide guidance on release or denial of BWC as needed.
5. If the BWC recording(s) requested under FOIL are involved in a criminal investigation or prosecution, the Chief of Police will coordinate communication among the investigating officers, the prosecutor, and the Village Legal Counsel as appropriate to identify any possible exemptions to FOIL disclosure.
  - a. If the Village Legal Counsel recommends release over the objection of the investigating officers and/or the prosecutor, the matter will be referred to the Chief of Police.
  - b. The Chief of Police will coordinate further review as required to resolve the matter, including consultation with the Village Legal Counsel, and the chief prosecuting officer or designee.
  - c. Based upon the consultation and review the Chief will make a final determination.
6. Any required redactions that may be necessary will be done prior to release.
7. The Chief of Police will work with appropriate staff to track and document the cost of compliance with FOIL requests for possible reimbursement claims under the statute.

## X. OTHER PUBLIC ACCESS

### A. Media Requests for BWC Recordings

1. Media requests for BWC recordings, including FOIL requests from the media, will be referred to the Chief of Police.
2. The Chief of Police will coordinate review of the request and respond in accordance with standard departmental policies and procedures as applicable.
3. If the BWC recording involves a criminal incident the Chief of Police will coordinate and consult with the investigating officers and prosecutor prior to release. If the BWC recording relates to a civil claim involving the Village of Medina, the Chief of Police will consult with the Village Legal Counsel.
4. All releases of BWC recordings to the media must be approved by the Chief of Police.
5. BWC recording released to the media will be redacted by as needed to protect safety and privacy, and the integrity of law enforcement operations, criminal investigations, and prosecutions; and to comply with applicable contractual requirements.

### B. MPD Release

1. Circumstances may arise in which MPD will consider releasing BWC recordings to the public through news conferences, social media, community meetings, and public displays, or other public release.



2. The Chief of Police will coordinate the review of BWC recordings for possible release by MPD.
3. The same procedures and authorizations as required for consideration of media release and redaction of BWC recordings will be followed.
4. The Chief of Police will have final authorization as to the release of BWC recordings using many factors in making the final release decision. Those factors may include but are not limited to public trust, transparency, ethics and other moral and public obligations.

By Order Of:

Chad Kenward  
Chief of Police