

POLICE TRAINING AND STANDARDS COMMISSION
MODEL POLICY

Body-Worn Cameras

Senate Bill 71, Chapter 60, 2021 Legislative Session
Article – Public Safety, §3-511

Adopted by the Police Training and Standards Commission, 1/8/16
Revisions Approved, 2/16/22

These minimum standards have been adopted by the Maryland Police Training and Standards Commission (MPTSC) in accordance with § 3-511 of the Public Safety Article (PSA) which required the MPTSC to develop and publish online a policy for the issuance and use of a body-worn camera (BWC) by a law enforcement officer. By dates specified by PSA § 3-511 (C) a law enforcement agency shall require the use of BWCs, subject to the policy on the use of body-worn cameras developed by the law enforcement agency, by each law enforcement officer employed who regularly interacts with members of the public as part of the officer's official duties.

In Summary:

1. Agencies must develop and issue a written policy prior to implementing a BWC program, and it must be consistent or exceed the minimum standards in this document,
2. Agencies shall issue and require an officer, who regularly interacts with a member of the public, to wear and use a BWC according to PSA § 3-511, and
3. Every law enforcement officer using a BWC must make a reasonable effort to comply with these standards.

BWC Policy Minimum Standards	Statutory References
A. TESTING: Prior to beginning each shift, the assigned agency member shall perform a function test of the BWC in accordance with the manufacturer's recommendations and agency policy.	PSA § 3-511: (1) the testing of body—worn cameras to ensure adequate functioning
B. MALFUNCTIONS: Upon discovering a BWC malfunction, agency members shall promptly report the malfunction to a supervisor or other appropriate authority in accordance with agency policy regarding malfunctions.	PSA § 3-511: (2) the procedure for the law enforcement officer to follow if the camera fails to properly operate at the beginning of or during the law enforcement officer's shift

C. MANDATORY ACTIVATION: subject to paragraph three of this recommendation below, officers shall begin recording with their BWCs in the below circumstances unless doing so would be unsafe, impossible, or impractical. If officers are unable to begin recording with the BWC due to circumstances making it unsafe, impossible, or impractical to do so, officers shall begin recording with the BWC at the first reasonable opportunity to do so. 1. At the initiation of a call for service or other activity that is investigative or enforcement in nature, or an encounter between the officer and a member of the public that is investigative or enforcement in nature; and 2. Any encounter that becomes confrontational after the initial contact. 3. 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, officers may turn off the BWC in order to obtain the statement or information. If the encounter begins when the BWC is not actively recording, the law enforcement officer may, but is not required to, temporarily activate the BWC for the sole purpose of documenting the person's refusal to be recorded.	PSA § 3-511: (3) when recording is mandatory
D. PROHIBITED ACTIVATION: A law enforcement officer shall not activate a camera to record: 1. Agency personnel during routine administrative activities; 2. Non-work related personal activity, or 3. In Court Facilities and Courtrooms, except with the express permission of the Local Administrative Judge or presiding judge, according to Md. Rule 16-208	PSA § 3-511: (4) when recording is prohibited PSA § 3-511: (16) specific protections for individuals when there is an expectation of privacy in private or public places

E. ENDING A RECORDING: Once recording with a BWC has been initiated, officers shall not end the recording until: 1. The event or encounter has fully concluded; or 2. The officer leaves the scene and anticipates no further involvement in the event; or 3. A supervisor or agency policy has authorized that a recording may cease because the officer is no longer engaged in a related enforcement or investigative activity; or, 4. 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, officers may turn off the BWC in order to obtain the statement or information.	PSA § 3-511: (7) when a recording may be ended
F. NOTIFICATION: 1. Except as otherwise exempted by law, a law enforcement officer shall notify, as soon as is practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so. 2. The notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.	PSA § 3-511: (8) providing notice of recording PSA § 3-511: (15) notification requirements when another individual becomes a party to the communication following the initial notification PSA § 3-511: (6) when recording may require consent of a subject being recorded
G. CONFIDENTIALITY: 1. Leased or purchased BWC equipment and all recordings are the property of the law enforcement agency, and only BWC equipment approved by agency policy shall be worn. 2. Except as authorized by agency policy, copying, releasing, altering, erasing or allowing unauthorized viewing of an agency video recording (or portion thereof) is prohibited and may subject an officer to disciplinary action.	PSA § 3-511: (9) access to and confidentiality of recordings
H. REQUIRED STORAGE AND MAINTENANCE OF RECORDINGS: 1. All files shall be securely saved and stored in accordance with agency policy. 2. Each agency's written policy shall include standards and procedures that address: a. security and access control, and b. creation of audit trails and access logs. 3. Each agency shall retain an unedited original version of stored body-worn camera footage, and should log anytime the footage is viewed, for what length of time and by whom, as well as any copying or editing.	PSA § 3-511: (10) the secure storage of data from a body—worn camera

I. REVIEW OF RECORDINGS: 1. Agencies' written policies shall include when members may view BWC recordings. Reasons to view and use recordings may include, but not be limited to: a. Report writing or preparation of other official documents; b. Court preparation; c. Review of prosecution evidence; d. Victim/witness/suspect statements; e. Crime scenes; f. Statement of charges; g. Administrative investigations; h. Training; i. Performance review; j. Incident critique; k. Maryland Public Information Act (MPIA) requests; l. Policy compliance; m. Disclosures required by law. 2. Additional considerations: a. 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. b. The stored video and audio data from a body worn camera may not: i. be used to create a database or pool of mug shots; ii. be used as fillers in photo arrays; or iii. be searched using facial or voice recognition software. c. This subsection does not prohibit an agency from using recognition software to analyze the recording of a particular incident when a supervisory law enforcement officer has reason to believe that a specific suspect or person in need of assistance may be subject of a particular recording. d. As long as reviewing of a BWC recording, as determined by the Attorney General or local States Attorney, does not impact the integrity of an investigation or negatively impact a criminal investigation, the recording may be reviewed by medical or mental health professionals consulted by the law enforcement agency for he limited purpose of addressing the officer's medical or mental health needs resulting from a critical incident.	PSA § 3-511: (11) review and use of recordings
J. RETENTION OF RECORDS: An agency's written policy shall include retention period(s) for BWC recordings.	PSA § 3-511: (12) retention of recordings

K. DISSEMINATION AND RELEASE OF RECORDINGS: BWC video/audio recordings from body cameras Will be released as required by the MPIA or other governing law.	PSA § 3-511: (13) dissemination and release of recordings
L. TRAINING AND DISCIPLINE: 1. Agencies shall ensure that officers are trained on agency policy and the operation of the BWC equipment prior to use in the field. Training shall also include alternative methods for effective notification of recording to persons with special needs or limited English proficiency. 2. Agencies written policies shall state that violations of the agency policy may result in discipline.	PSA § 3-511: (14) consequences for violations Of the agency's body—worn camera policy
M. DISCRETIONARY ACTIVATION: When not otherwise prohibited by law or agency policy, officers may begin recording with their BWC in circumstances when they determine that doing so would be beneficial to the public interest.	PSA § 3-511: (5) when recording is discretionary
N. WRITTEN POLICY REQUIRED: Each law enforcement agency shall develop and issue a written policy for using BWCs that is consistent with state law and policy issued by the Maryland Police Training Commission prior to implementing a BWC program.	PSA § 3-511: (17) any additional issues determined to be relevant in the implementation and use of body—worn cameras by law enforcement officers
O. INCIDENT REPORTS: Incident reports should note any use of BWC.	PSA § 3-511: (17) any additional issues determined to be relevant in the implementation and use of body—worn cameras by law enforcement officers
P. AGENCY BWC POLICIES: BWC policies of agencies shall be made available to the public.	PSA § 3-511: (17) any additional issues determined to be relevant in the implementation and use of body—worn cameras by law enforcement officers