

September 24, 2018

Sent via e-mail

The Mayor's Office of Legal Counsel, FOIA Appeal
1350 Pennsylvania Avenue, N.W., Suite 407
Washington, D.C. 20004
foia.appeals@dc.gov

**Re: Appeal of Denial of FOIA Request for Recordings of
June 13 and June 25 MPD Actions on Sheriff Road NE**

To Whom It May Concern:

We write, pursuant to D.C. Code § 2-537(a) and 1 D.C.M.R. 412, to appeal the denial of our request under the D.C. Freedom of Information Act ("FOIA") for body-worn camera ("BWC") and surveillance recordings of two recent interactions between Metropolitan Police Department ("MPD" or the "Department") officers and members of the public on the 5200 block of Sheriff Road NE, in the Deanwood neighborhood of Washington, D.C. Our original FOIA request, *see* Ex. A, describes the general details of the two incidents, which took place on June 13 and June 25, 2018, respectively.



District
of Columbia

915 15th St. NW, 2nd Floor
Washington, D.C. 20005
(202) 457-0800
acludc.org

Background

On July 9, 2018, the American Civil Liberties Union of the District of Columbia (ACLU-DC) submitted our request for (1) "a copy of the footage obtained from all Body-Worn Cameras recorded by any MPD officer in the 5200 block of Sheriff Rd. NE at the time of" the June 13 and June 25 incidents, (2) "any other existing footage—such as dashboard or CCTV surveillance camera—that exists from" those incidents, and (3) "any records related to these incidents." The request for BWC footage was made pursuant to D.C. Code § 2-532(c)(2)(A) and 24 D.C.M.R. 3902.6, while the request for other footage and records was made pursuant to D.C. Code § 2-532(a).

On July 13, 2018, MPD sent a letter denying the entirety of our FOIA request under Exemption 3(B) of the DC FOIA (attached hereto as exhibit B). We appealed that denial to this Office, *see* Ex. C, and, while the appeal was pending, MPD released the incident reports, which it described as the documents "available under this request, at this time." Inspector Vendette T. Parker, Letter to Shana Knizhnik re: FOIA Request 2018-BWC-00166, at 1 (Aug. 13, 2018), attached hereto as Ex. D. MPD did not disclose any BWC footage or other camera footage.

After considering our appeal, this Office determined that “MPD has relied on conclusory assertions and speculation in denying the request for public records and failed to argue that it satisfies the burden of proof set forth in *Washington Post Co. v. DOJ*.” D.C. Executive Office of the Mayor, Freedom of Information Act Appeal: 2018-145 at 3 (Aug. 16, 2018), attached hereto as Ex. E. The Office remanded the matter to MPD and ordered the Department to “disclose . . . non-exempt portions of [the requested] BWC [footage] and video recorded by other means or provide a reasonable explanation of the basis for withholding.” *Id.*

MPD responded by reasserting that Exemption 3(B) shielded the requested camera footage. Deputy General Counsel Ronald B. Harris, Letter to Shana Knizhnik re: FOIA Request 2018-BWC-145, at 1 (Aug. 27, 2018), attached hereto as Ex. F. The Department conceded that “there is no pending trial or adjudicative proceeding” but asserted that the existence of “active investigations” was sufficient to trigger the exemption. *Id.* It further asserted, for the first time, that disclosure would undermine efforts to obtain “a fair and accurate assessment of the officers’ actions” because “[i]nvolved persons could easily conform any statements or testimony to reflect what is in their interests . . . [and] non-involved persons could interject themselves into the investigation simply by reflecting what they saw in the videos.” *Id.* at 1–2.

Discussion

The D.C. Court of Appeals has made clear that “[g]iven the broad disclosure policy reflected in the District’s FOIA,” the Act should be “construe[d] . . . with the view toward expansion of public access and the minimization of costs and time delays to persons requesting information.” *Fraternal Order of Police, Metro. Labor Comm. v. District of Columbia*, 82 A.3d 803, 813 (D.C. 2014). That is, “provisions of the Act giving citizens the right of access are to be generously construed, while the statutory exemptions from disclosure are to be narrowly construed, with ambiguities resolved in favor of disclosure.” *Id.*

I. Exemption 3(B)

The sole exemption cited by MPD applies to “[i]nvestigatory records compiled for law-enforcement purposes . . . but only to the extent that the production of such records *would* . . . [d]eprive a person of a right to a fair trial or an impartial adjudication.” D.C. Code § 2-534(a)(3)(B) (emphasis added). As this Office has previously explained, a statement by an agency that “the enumerated harms *could* occur . . . does not meet the standard.” D.C. Executive Office of the Mayor, Freedom of Information Act Appeal: 2012-03, at 3 (Nov. 23, 2011) (emphasis added), *available at* <https://dc.gov/sites/default/files/dc/sites/DC/publication/attachments/201203.pdf>. Interpreting the analogous federal provision, the D.C. Circuit has held the government may invoke it only upon showing “(1) that a trial or adjudication is pending or truly imminent; and (2) that it is more probable than not that disclosure

of the material sought would seriously interfere with the fairness of those proceedings.” *Washington Post Co. v. United States Dep’t of Justice*, 863 F.2d 96, 102 (D.C. Cir. 1988); accord *Chiquita Brands Int’l Inc. v. S.E.C.*, 805 F.3d 289, 294 (D.C. Cir. 2015).

A. No trial or adjudication is pending or truly imminent.

MPD agrees that the *Washington Post* standard governs this case and admits that no trial or adjudication is pending or “truly imminent.” Ex. F at 1. These concessions alone make Exemption 3(B) inapplicable. Any contrary result would treat the first prong of the *Washington Post* test as a nullity.

MPD argues that the existence of “active investigations” satisfies the first prong when those investigations could eventually lead to administrative disciplinary proceedings against a police officer. Ex. F at 1. MPD fails to support this argument with any legal authority, *see id.*, and it is flatly contrary to the holding of *Washington Post*. Applying the exemption where nothing is pending except an investigation that may or may not ever lead to any adjudication would expand the exemption far beyond the “narrow range of situations” to which it was designed to apply. *Washington Post*, 863 F.2d at 102. *See also id.* at 101 (quoting a contemporaneous memorandum from the U.S. Attorney General stating that the analogous federal exemption “was meant to prevent disclosures from conferring an unfair advantage upon one party to an adversary proceeding or leading to prejudicial publicity in pending cases that might inflame jurors or distort administrative judgment”) (emphasis added).

Indeed, when analyzing the analogous federal exemption, courts have repeatedly rejected broad interpretations like the one that MPD advances here. For example, the D.C. Circuit denied an attempt to construe the words “trial” and “adjudication” expansively and, in the process, emphasized the limited scope of those terms. *See Chiquita*, 805 F.3d 289 at 296 (observing that “[i]t has long been settled that the word ‘trial’ means the ultimate determination of factual and legal claims by judge or jury in a judicial proceeding,” and noting that courts have “interpreted ‘adjudication’ as it appears in FOIA . . . [to refer to] ‘the agency process for the formulation of an order’” (quoting 5 U.S.C. § 551(7))). Similarly, the District Court for the District of Columbia has rejected attempts to invoke the exemption “because no proceedings were pending.” *Washington Post*, 863 F.2d at 102 (summarizing *Playboy Enter., Inc. v. Dep’t of Justice*, 516 F. Supp. 233, 246 (D.D.C. 1981), *aff’d in part, modified in part on other grounds*, 677 F.2d 931 (D.C. Cir. 1982)). And in *Dow Jones, Inc. v. F.E.R.C.*, 219 F.R.D. 167 (C.D. Cal. 2003), the court held that an ongoing investigation by the California Attorney General did not satisfy *Washington Post*’s first prong because it did not qualify as a pending or truly imminent trial or adjudication. *Id.* at 172, 174–75 (concluding the government “has submitted no evidence than any trial or adjudication . . . is ‘pending or truly imminent’” even though

the record contained a document “from [the] California Attorney General describing its criminal investigation”).

Moreover, the reasoning behind MPD’s argument is flawed. Seeking to show that “active investigations” suffice, MPD explains that the requirements of due process and the union contract make it impossible for them to schedule a disciplinary adjudication at this time. Ex. F at 1. But that explanation only confirms that no proceeding is pending or imminent. No matter how much process the government must accord police officers before initiating a disciplinary proceeding, such a proceeding will, at some moment in time, be imminent. Under *Washington Post*, it is only at that point that MPD may invoke Exemption 3(B). By MPD’s own admission, that time has not arisen. Indeed, MPD admits that it has not yet even made “a determination . . . as to *whether* the administrative disciplinary process should be initiated against the subject officers.” Ex. F at 1 (emphasis added). In other words, there may *never* be a legitimate ground for invoking Exemption 3(B).

B. It is not probable that disclosure of the requested videos would seriously interfere with the fairness of any proceedings.

MPD’s arguments concerning *Washington Post*’s second prong are similarly unpersuasive. The Department argues that releasing the footage will allow potential witnesses to conform their stories to the videos before they give statements or testify. Ex. F at 1. It also asserts that “non-involved persons could interject themselves into the investigation simply by reflecting what they saw in the videos.” *Id.* at 1–2.

1. MPD does not explain why it is “more probable than not,” *Washington Post*, 863 F.2d at 102, that potential witnesses would want to conform their stories to the videos. Tellingly, the Department does not have the same concern about its own officers, who may view BWC footage, to, among other things, “assist in accurate report writing [and] testifying in court.” MPD General Order 302.13 at 16 (§ V.D.2) (Mar. 11, 2016), attached hereto as Ex. G. Indeed, MPD expressly allows officers “who are the *subject* of an administrative investigation [to] view their BWC recording *prior to completing and submitting any required reports and being interviewed by the appropriate investigative unit.*” *Id.* at 20 (§ V.E.3.c) (emphasis added).¹ If MPD expects those with the most to lose from a potential future proceeding to speak candidly, surely it cannot simply assume the opposite about all other potential witnesses.

Moreover, the risks MPD claims to fear in large part already exist. Regardless of whether the Department grants this FOIA request, many potential witnesses can

¹ In limited circumstances, MPD officers have restricted access to BWC footage or are prohibited from viewing it. See Ex. G at 19–20 (General Order 302.13 § V.E.3.a, b). However, MPD has not asserted that those circumstances apply here.

view at least some of the BWC footage before testifying or giving a statement. That not only includes officers—who, as noted, generally have immediate access to BWC footage—but also civilian witnesses. “Subjects” of BWC recordings—that is, anyone filmed other than an on-duty MPD officer—generally may watch recordings of themselves if the relevant MPD officials determine that allowing them access will not “violate[] the . . . privacy rights” or “compromise the safety” of any other subject. *Id.* at 20–21 (§ V.F.3, 4). The General Order does not limit access to civilians who have already testified or given statements. *See id.*

2. MPD’s concern that releasing the camera footage would allow “non-involved persons to interject themselves into the proceedings,” Ex. F at 1–2, is equally conjectural. The Department does not even attempt to explain why or how “non-involved persons could interject themselves into the investigation,” or even who those “non-involved persons” might be.

If what the Department has in mind is that citizens might call upon MPD to pursue—or not to pursue—disciplinary action against officers, that is precisely the kind of “interjection” that FOIA exists to allow. The “basic policy” of FOIA “focuses on the citizens’ right to be informed about ‘what their government is up to.’” *Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 773 (1989). That includes MPD.

Alternatively, if what the Department has in mind is that citizens who were not involved in the incidents could somehow pretend to have been involved, that is a far-fetched speculation supported by no facts.

3. Finally, even if there were any factual or logical support for MPD’s assertions that potential witnesses might conform their stories to the videos or that non-involved persons could “interject themselves into the investigation” by watching the videos, MPD has provided no basis on which this Office could conclude that such actions “*would . . . [d]eprive a person of a right to a fair trial or an impartial adjudication*” as the exemption requires. D.C. Code § 2-534(a)(3)(B) (emphasis added). Under analogous federal caselaw, to obtain the benefit of the exemption, MPD must demonstrate that it is “*more probable than not* that disclosure of the material sought would *seriously* interfere with the fairness” of a trial or other adjudication. *Washington Post*, 863 F.2d at 102 (emphasis added). *See also Chiquita*, 805 F.3d at 296 (noting that the exemption “tells us to assess the *significance* of any alleged unfairness in light of its effect on the trial”) (emphasis added). MPD has made no effort to explain why or how the viewing of the requested videos by members of the public would seriously interfere with the fairness of a proceeding in which the factfinders would be senior MPD officials, who could of course view the footage for themselves.

Thus, even if MPD had shown that there was a pending or imminent adjudication—which there is not—and even if MPD had shown that there was a serious threat that witnesses or “non-involved persons” would change their testimony or interject themselves in such an adjudication—which it has not—there is no reason to believe that any person would likely be deprived of a fair trial or adjudication.

In sum, MPD has not remotely justified the withholding of the requested materials under Exemption 3(B).

II. Exemption 3(A)(i)

Although MPD has not invoked D.C. Code § 2-534(a)(3)(A)(i) (“Exemption 3(A)(i)”), any attempt to rely on that provision in subsequent filings is unlikely to succeed.² Exemption 3(A)(i) permits agencies to withhold “investigatory records compiled for law-enforcement purposes . . . but only to the extent that the production of such records *would* . . . [i]nterfere with . . . [e]nforcement proceedings.” (Emphasis added). The D.C. FOIA requires agencies to show a higher likelihood of interference than does the federal equivalent, as the D.C. law uses the phrase “*would* . . . interfere,” *id.*, while the federal law protects records as long as they “*could reasonably be expected* to interfere with enforcement proceedings,” 5 U.S.C. § 552(b)(7)(A) (emphases added). The difference means that MPD must prove “to a certainty” that disclosure will interfere with a future enforcement proceeding. See *North v. Walsh*, 881 F.2d 1088, 1098 n.14 (D.C. Cir. 1989) (discussing consequence of amendment to federal FOIA that changed “would” to “could” and quoting *Reporters Comm. For Freedom of the Press v. United States Dep’t of Justice*, 816 F.2d 730, 738 (D.C. Cir. 1987), *modified on reh’g*, 831 F.2d 1124 (D.C. Cir. 1987), *rev’d on other grounds*, 489 U.S. 749 (1989)). MPD cannot make that showing, or even the lesser showing required under the more lenient federal standard, because it cannot know who the defendant(s) in any proceeding would be, what the charges would be, who the witnesses would be, what the evidence would be, or whether any member of the public who viewed the videos would be allowed to participate in any way.

Even under the more lenient federal standard, courts require a “more focused and particularized review” where the potential subjects of the enforcement proceedings have access to the requested records. *Campbell v. Dep’t of Health & Human Servs.*, 682 F.2d 256, 265 (D.C. Cir. 1982); see also *Ralph Hoar & Assoc. v. Nat’l Highway*

² We address Exemption 3(A)(i) prophylactically because in other recent proceedings, this Office has allowed MPD to claim new exemptions on remand, and has given us no opportunity to respond to those new claims before ruling in MPD’s favor. We hope that in the future—including in this case, if necessary—the Office will allow FOIA requesters to respond to any claims of exemption before ruling. Cf. *In re Kline*, 11 A.3d 261, 265 (D.C. 2011) (declining to consider a contention where the opposing party did not have a “full and fair opportunity to respond to it”).

Traffic Safety Admin, 985 F. Supp. 1, 9 (D.D.C. 1997). As the D.C. Circuit has elaborated, “[i]f the target of the investigation—the one who might use the information to intimidate witnesses, destroy evidence, and so forth—already has the information, public access to it is unlikely to interfere with law enforcement proceedings.” *Swan v. S.E.C.*, 96 F.3d 498, 500 (D.C. Cir. 1996).

That is the case here. As noted previously, MPD has not contended that the subjects of the investigation have not viewed or cannot view the BWC footage at issue in this appeal. That omission alleviates a primary concern underlying Exemption 3(A)(i)—namely that disclosure will result in the “premature release of evidence or information not in the possession of known or potential defendants.” *Campbell*, 682 F.2d at 262 (quoting statement of Senator Hart).

Moreover, the possibility that releasing camera footage will cause civilian witnesses to change their stories or non-involved persons to “interject themselves” is just as speculative in the context of Exemption 3(A)(i) as in the context of Exemption 3(B). Thus, MPD has not demonstrated to “a certainty” that disclosing the camera recordings will create any risks for enforcement proceedings that are not already present.

If, despite this analysis, MPD wishes to change its position and assert Exemption 3(A)(i), it must do so expressly. That is, it must submit a filing claiming the exemption and present non-conclusory arguments that demonstrate that the provision applies. *See Fraternal Order of Police, Metro. Labor Comm. v. District of Columbia*, 82 A.3d 803, 814 (D.C. 2014) (“In a FOIA case, the burden of proof is always on the agency. . . .”) (quoting *McKinley v. Federal Deposit Ins. Corp.*, 756 F. Supp. 2d 105, 110–11 (D.D.C.2010)). Should it do so, we should be given an opportunity to respond to the arguments it makes.

Whatever MPD says in the future, its justifications for withholding the camera footage have, so far, been highly speculative. By contrast, the consequences of upholding MPD’s non-disclosure are far more certain. MPD’s arguments here could apply to any case involving a FOIA request for camera footage about any incident controversial enough to prompt any kind of investigation. If accepted, those arguments would prevent the public from viewing recordings that pertain to matters of widespread concern until the attention surrounding the events has dissipated. Thus, while MPD’s position would not prevent police officers, suspects, or witnesses from viewing at least some camera footage, it would completely deny access to individuals whose interest is their desire to participate in the public discourse. That result would run counter to “[t]he public policy of the District of Columbia . . . that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Code § 2-531.

Conclusion

For these reasons, MPD's denial of this FOIA request should be reversed and the footage responsive to our request should be ordered released.

Respectfully,



Michael Perloff*, Legal Fellow
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mperloff@acludc.org
(202) 601-4278

*Admitted to practice in New York. Practicing in D.C. under supervision of a D.C. Bar member while awaiting admission to D.C. Bar, pursuant to D.C. Ct. App. R. 49 (c)(8).

Exhibit A

July 9, 2018

Via Public FOIA Portal
Inspector Vendette Parker
Metropolitan Police Department
300 Indiana Avenue NW
Room 4153
Washington, D.C. 20001
Phone: (202) 727-3721

**Re: FOIA Request – Body-Worn Camera and Other
Footage of June 13 and June 25 MPD Actions on Sheriff
Road NE**

Dear Inspector Parker:



**District
of Columbia**

915 15th St. NW, 2nd Floor
Washington, D.C. 20005
(202) 457-0800
acludc.org

This is a request under the D.C. Freedom of Information Act (FOIA), D.C. Code § 2-531 et seq., on behalf of the American Civil Liberties Union of the District of Columbia (ACLU) and its members for recordings of the two recent interactions between Metropolitan Police Department (MPD) officers and members of the public on the 5200 block of Sheriff Road NE, in the Deanwood neighborhood of Washington, D.C.

On June 13, 2018, a group of MPD officers exited an unmarked car and approached a group of young men on the northern sidewalk of the 5200 block of Sheriff Road NE, Washington, DC 20019 at some point in the early evening. The officers seized a handgun (apparently a BB gun) from one man, asked all the men for identification, and searched at least one of them. Several of the young men present recorded videos on their cell phones. Officers ordered the men to move back. Videos taken by the young men became public and were the subject of several news stories. *See, e.g.,* Sam Ford, D.C. police accused of staging search to conduct stop and frisk outside barbershop, ABC7 (Jun. 25, 2018), <http://wjla.com/news/local/dc-police-accused-search-conduct-stop-frisk-barbershop>.

On June 25, 2018, a larger group of MPD officers arrived at the same location at approximately 9:30 pm, confronting and shining flashlights into the eyes of the members of the public present. During that encounter, MPD officers pepper-sprayed

several members of the public and ultimately arrested three young men and one older man. These men were held overnight, although their charges were dismissed prior to appearing before a judge. Based on our information, the CCN for these arrests is 18103864.

Pursuant to D.C. Code § 2-532(c)(2) and 24 DCMR 3902.6, we request a copy of the footage obtained from **all Body-Worn Cameras** recorded by any MPD officer in the 5200 block of Sheriff Rd. NE at the time of the June 13 incident described above, which we estimate as being between 7:00pm and 8:00pm, and at the time of the June 25 incident described above, which we estimate as being between 9:00pm and midnight.

In addition, pursuant to D.C. Code § 2-532(a), we request **any other existing footage**—such as dashboard or CCTV surveillance camera—that exists from the above-mentioned incidents, as well as **any records related to these incidents**, including but not limited to: any after-action reports, any PD-251, PD-76 or other incident reports, and any disciplinary records relating to MPD's actions on June 13 and June 25, 2018.

We believe the requested footage and records are public records and not exempt from disclosure under statutory exemptions found in the D.C. FOIA. If you determine that some or all of the records are exempt, you must provide a written explanation including a reference to the specific statutory exemption on which you rely. D.C. Code § 2-533(a). If a segregable portion of any record is not exempt, you must provide those portions along with your explanation of the exemption. D.C. Code § 2-534(c). We reserve the right to appeal any such decision.

We request a fee waiver pursuant to D.C. Code § 2-532(b), which permits you to waive or reduce any fee for searching and reproducing records if “furnishing the information can be considered as primarily benefiting the general public.” The ACLU is a nonprofit public interest organization with limited resources, dedicated to the protection of civil rights and civil liberties. The public is the primary beneficiary of the ACLU's work to protect fundamental rights, whether by litigation, legislative advocacy or publication. It is on this ground that federal and state agencies, as well as courts, generally grant waivers of fees for ACLU FOIA requests. The present request satisfies the statutory criteria for a fee waiver.

If you determine no waiver is appropriate, and if the proposed fee is greater than \$25.00, we ask that you notify us prior to fulfilling the above requests.

Please furnish all applicable records to Shana Knizhnik, 915 15th Street, NW, Second Floor, Washington, DC 20005 or sknizhnik@acludc.org. If you have questions, please contact me at 202-601-4278 or sknizhnik@acludc.org.

We look forward to your reply to this records request within 25 business days for the BWC footage, and within 15 business days for any other footage and written records, as required by D.C. Code § 2-532(c). Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Knizhnik', with a stylized, flowing script.

Shana Knizhnik, Dunn Fellow
ACLU Foundation of the District of Columbia

Exhibit B



GOVERNMENT OF THE DISTRICT OF COLUMBIA
METROPOLITAN POLICE DEPARTMENT

July 13, 2018

Sent via email: shana@aclu-nca.org

Re: FOIA Request 2018-BWC-00166

Dear Ms. Knizhnik:

This letter is in response to your amended Freedom of Information Act (FOIA) request for the following:

- *Pursuant to D.C. Code § 2-532©(2) and 24 DCMR 3902.6, we request a copy of the footage obtained from all Body-Worn Cameras recorded by any MPD officer in the 5200 block of Sheriff Rd. NE at the time of the June 13 incident described above, which we estimate as being between 7:00pm and 8:00pm, and at the time of June 25 incident described above, which we estimate as being between 9:00pm and midnight*
- *In addition, pursuant to D.C. Code §2-532(a), we request any other existing footage- such as dashboard or CCTV surveillance camera-that exists from the above-mentioned incidents, as well as any records related to these incidents, including but not limited to: any after-action reports, any PD-251, PD-76 or other incident reports, and any disciplinary records relating to MPD's acitons on June 13 and June 25, 2018.*

After due consideration, we must deny your request. The records you are seeking are a part of an ongoing administrative investigation. The release of documents could interfere the investigation with by revealing the direction and pace of the investigation. It could lead to attempts to destroy or alter evidence, reveal information about potential witnesses who could then be subjected to intimidation as part of an effort to frustrate future investigative activities, or could place witnesses in danger. For these reasons they are exempt from disclosure pursuant to DC Official Code §2-534(3)(B).

Please know that, under D.C. Official Code § 2-537 and 1 DCMR § 412, you have the right to appeal this letter to the Mayor or to the Superior Court of the District of Columbia. If you elect to appeal to the Mayor, your appeal must be in writing and contain "Freedom of Information Act Appeal" or "FOIA Appeal" in the subject line of the letter, as well as, on the outside of the envelope. The appeal must include (1) a copy of the original request; (2) a copy of any written denial; (3) a statement of the circumstances, reasons, and/or arguments advanced in support of disclosure; and (4) a daytime telephone number, an e-mail and/or U.S. mailing address at which you can be reached.

The appeal must be mailed to: The Mayor's Office of Legal Counsel, FOIA Appeal, 1350 Pennsylvania Avenue, N.W., Suite 407, Washington, D.C. 20004. Electronic versions of the same information can instead be e-mailed to the Mayor's Office of Legal Counsel at foia.appeals@dc.gov. Further, a copy of all appeal materials must be forwarded to the Freedom

of Information Officer of the involved agency, or to the agency head of that agency, if there is no designated Freedom of Information Officer there.

Failure to follow these administrative steps will result in delay in the processing and commencement of a response to your appeal to the Mayor.

Regards,

A handwritten signature in black ink, appearing to be 'V. Parker', written in a cursive style.

Inspector Vendette T. Parker
Metropolitan Police Department
Freedom of Information Act (FOIA) Officer

Exhibit C

July 26, 2018

Sent via e-mail

The Mayor's Office of Legal Counsel, FOIA Appeal
1350 Pennsylvania Avenue, N.W., Suite 407
Washington, D.C. 20004
foia.appeals@dc.gov

**Re: Denial of FOIA Request for Body-Worn Camera and
Other Footage of June 13 and June 25 MPD Actions on
Sheriff Road NE**

To Whom It May Concern:

We write, pursuant to D.C. Code § 2-537 and 1 DCMR 412, to appeal the denial of our recent request under the D.C. Freedom of Information Act (FOIA) seeking body-worn camera (BWC) and surveillance recordings of, and other records relating to, two recent interactions between Metropolitan Police Department (MPD) officers and members of the public on the 5200 block of Sheriff Road NE, in the Deanwood neighborhood of Washington, D.C. The attached request describes the general details of the two incidents, which took place on June 13 and June 25, 2018, respectively.

On July 9, 2018, the American Civil Liberties Union of the District of Columbia (ACLU-DC) submitted our request for (1) “a copy of the footage obtained from all Body-Worn Cameras recorded by any MPD officer in the 5200 block of Sheriff Rd. NE at the time of” the June 13 and June 25 incidents, (2) “any other existing footage—such as dashboard or CCTV surveillance camera—that exists from” those incidents, and (3) “any records related to these incidents, including but not limited to: any after-action reports, any PD-251, PD-76 or other incident reports, and any disciplinary records relating to MPD’s actions on June 13 and June 25, 2018.” The request for BWC footage was made pursuant to D.C. Code § 2-532(c)(2) and 24 DCMR 3902.6, while the other footage and records request was made pursuant to D.C. Code § 2-532(a).

On July 13, 2018, MPD sent a letter denying the entirety of our FOIA request. The letter stated the reason for the denial as follows:



**District
of Columbia**

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The records you are seeking are a part of an ongoing administrative investigation. The release of documents could interfere the investigation with by revealing the direction and pace of the investigation. It could lead to attempts to destroy or alter evidence, reveal information about potential witnesses who could then be subjected to intimidation as part of an effort to frustrate future investigative activities, or could place witnesses in danger. For these reasons they are exempt from disclosure pursuant to DC Official Code §2-534(3)(B).

Inspector Vendette T. Parker, Letter to Shana Knizhnik re: FOIA Request 2018-BWC-00166, at 1 (July 13, 2018) (attached).

The D.C. Court of Appeals has made clear that “[g]iven the broad disclosure policy reflected in the District’s FOIA,” the Act should be “construe[d] . . . with the view toward expansion of public access and the minimization of costs and time delays to persons requesting information.” *Fraternal Order of Police, Metro. Labor Comm. v. Dist. of Columbia*, 82 A.3d 803, 813 (D.C. 2014). That is, “provisions of the Act giving citizens the right of access are to be generously construed, while the statutory exemptions from disclosure are to be narrowly construed, with ambiguities resolved in favor of disclosure.” *Id.*

The specific exemption cited by MPD applies to “[i]nvestigatory records compiled for law-enforcement purposes . . . but only to the extent that the production of such records *would* . . . [d]eprive a person of a right to a fair trial or an impartial adjudication.” D.C. Code § 2-534(3)(B) (emphasis added).

As your office has previously explained, a statement by an agency that “the enumerated harms *could* occur does not meet the standard.” D.C. Executive Office of the Mayor, Freedom of Information Act Appeal: 2012-03, at 3 (Nov. 23, 2011) (emphasis added), *available at* <https://dc.gov/sites/default/files/dc/sites/DC/publication/attachments/201203.pdf>. In that case, as MPD does here, the government asserted the exemption based on “a possibility that the investigation could be harmed or that the information contained in [the requested] documents could prejudice the public in such a way that the subjects of the investigation would be deprived of a right to a fair and impartial adjudication.” *Id.* at 2. However, such speculative claims are insufficient to meet the pro-disclosure standard of DC’s FOIA statute.

Likewise, D.C. federal courts interpreting the identical exemption of the Federal FOIA, codified at 5 U.S.C. § 552(b)(7)(B), have held that in order to claim the fair trial or adjudication exemption, “the government bears the burden of showing: (1) that a trial or adjudication is pending or truly imminent; and (2) that it is more probable than not that disclosure of the material sought would seriously interfere with the fairness of those proceedings.” *Washington Post Co. v. U.S. Dep’t. of Justice*,

863 F.2d 96, 102 (D.C. Cir. 1988). In other words, the government cannot meet its burden “by mere conclusory statements; the agency must show how release of the particular material would have the adverse consequence that the Act seeks to guard against.” *Id.* at 101.

MPD makes no attempt to meet this burden. First, it does not describe what adjudication or trial would even possibly be made unfair through the disclosure of the requested materials. No one was arrested during the June 13, 2018 incident, and the cases of the four individuals arrested during the June 25, 2018 incident were “no papered.” Thus, MPD has failed to meet its burden of demonstrating that there is any pending or imminent trial or adjudication to qualify for the exemption.

Even if some adjudication did exist, MPD’s conclusory, speculative, and conditional assertions that the release of the requested records “could” produce various harms fail to show that any such harms are remotely likely.

First, MPD claims that release of the requested records could “reveal[] the direction and pace of the investigation.” But they do not explain how BWC or surveillance video could reveal anything about the investigation. The requests for footage concern only the images themselves, not investigatory memoranda or other internal MPD analyses of the footage. Thus, disclosing the footage requested would shed no light on what, if anything, MPD is doing by way of investigation with any particular video. The same is true for the specific forms requested (such as PD-251s): the forms themselves cannot reveal what investigatory steps MPD is or is not taking based on these forms. To the extent that the broad category of “records related to these incidents” could include a recommendation or discussion about the direction of an ongoing MPD investigation, the ACLU-DC acknowledges that such documents could be exempt, but in order to assert that exemption properly, MPD would have to identify the specific types of documents that it believes are exempt and explain how their disclosure *would* (not merely *could*) cause the harms specified in the statutory text. MPD’s claim that *all* records related to these incidents would reveal the direction and pace of the investigation is not credible; to the extent some small subset of “related” records could be exempt, MPD has failed to carry its burden to show that the exemption applies.

Second, MPD claims that release of the requested records could “lead to attempts to destroy or alter evidence.” Again, MPD does not explain how this could be true. All we will receive are *copies* of records. MPD will retain the originals, which will not be susceptible to alteration or destruction.

Finally, MPD claims that release of the requested records could “reveal information about potential witnesses who could then be subjected to intimidation as part of an effort to frustrate future investigative activities, or could place witnesses in danger.” This explanation is not only speculative but also far too broad, as it could

apply to any record of any kind in MPD's possession. MPD has offered no reason to believe that any specific record responsive to our FOIA request would reveal identifying information about potential witnesses, or that witness intimidation is at all likely in this situation, in which police officers abused community members.

If the government's assertions regarding the release of the requested footage and records is accepted, it would result in the denial of all requests for body-camera or surveillance camera footage, or any other records of any kind, while any incident is under investigation. Such an all-encompassing interpretation of the "fair trial or impartial adjudication" exemption has no basis in D.C.'s FOIA statute, and flies in the face of the pro-disclosure policy underlying it.

For these reasons, we respectfully request that MPD's denial of FOIA Request 2018-BWC-00166 be overturned and that the Department be directed to release the requested records.

Respectfully,



Shana Knizhnik, Dunn Fellow
ACLU Foundation of the District of Columbia
sknizhnik@acludc.org
(202) 601-4278

Exhibit D



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
METROPOLITAN POLICE DEPARTMENT**

August 13, 2018

Shana Knizhnik
915 15th Street NW
Washington, DC 20005

Re: FOIA Appeal 2018-145 (2018-BWC-00166)

Dear Ms. Knizhnik:

Pursuant to your appeal of the department's response to your request for certain documents, we have reconsidered our original denial. The department has conducted a search and documents that are available under this request, at this time, are the Incident Reports, which have been attached.

Please know that, under D.C. Official Code § 2-537 and 1 DCMR § 412, you have the right to appeal this letter to the Mayor or to the Superior Court of the District of Columbia. If you elect to appeal to the Mayor, your appeal must be in writing and contain "Freedom of Information Act Appeal" or "FOIA Appeal" in the subject line of the letter, as well as, on the outside of the envelope. The appeal must include (1) a copy of the original request; (2) a copy of any written denial; (3) a statement of the circumstances, reasons, and/or arguments advanced in support of disclosure; and (4) a daytime telephone number, an e-mail and/or U.S. mailing address at which you can be reached.

The appeal must be mailed to: The Mayor's Office of Legal Counsel, FOIA Appeal, 1350 Pennsylvania Avenue, N.W., Suite 407, Washington, D.C. 20004. Electronic versions of the same information can instead be e-mailed to the Mayor's Office of Legal Counsel at foia.appeals@dc.gov

Further, a copy of all appeal materials must be forwarded to the Freedom of Information Officer of the involved agency, or to the agency head of that agency, if there is no designated Freedom of Information Officer there.

Failure to follow these administrative steps will result in delay in the processing and commencement of a response to your appeal to the Mayor.

Regards,

Inspector Vendette T. Parker
Metropolitan Police Department
Freedom of Information Act (FOIA) Office

Exhibit E

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR**



Mayor's Office of Legal Counsel

August 16, 2018

VIA E-MAIL

Ms. Shana Knizhnik

RE: FOIA Appeal 2018-145

Dear Ms. Knizhnik:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the Metropolitan Police Department ("MPD") improperly withheld records you requested pertaining to two interactions between MPD officers and members of the public.

Background

On July 9, 2018, you submitted a FOIA request on behalf of the American Civil Liberties Union of the District of Columbia for records related to MPD's actions on the 5200 block of Sheriff Road NE on June 13, 2018 and June 25, 2018. Your request sought three categories of records related to the interactions: (1) video recorded by body-worn cameras ("BWC"), (2) video recorded by other means such as dashboard cameras or surveillance cameras, and (3) documents created as a result of the interactions such as after-action reports, PD-251 forms, PD-76 forms, incident reports, and disciplinary records. Your request also asserts that no arrests resulted from the June 13 interaction, that the June 25 interaction resulted in four arrests, and that all of the arrested individuals' charges were dismissed prior to appearing before a judge.

On July 13, 2018, MPD denied your request in its entirety pursuant to D.C. Official Code § 2-534(a)(3)(B) ("Exemption 3(B)"). MPD's denial stated that the responsive records were part of an ongoing administrative investigation and that disclosure could potentially: reveal the direction and pace of the investigation, lead to attempts to destroy or alter evidence, or alter testimony of potential witnesses.

This Office received your appeal on July 26, 2018, and contacted MPD for its response.¹ On appeal, you assert that MPD's application of Exemption 3(B) is improper and that MPD has not met its burden to withhold responsive records pursuant to Exemption 3(B). You argue that MPD

¹ Due to administrative error, MPD was not notified of your appeal until August 8, 2018. You were subsequently notified of the error and did not object to a delayed timeline for this determination.

has not met the standard for withholding responsive records, based on a previous administrative appeal and case law precedent pertaining to the analogous provision of federal FOIA. You assert that MPD has failed to demonstrate that there is any pending or imminent trial or adjudication necessary to invoke Exemption 3(B). Finally, you challenge each of MPD's stated reasons for withholding, arguing that MPD's conclusory assertions are insufficient.

On August 14, 2018, MPD sent you a response to your appeal.² In that response, MPD reconsidered its original denial and disclosed a public incident report for each of the interactions at issue. On the same day you contacted this Office to acknowledge that MPD had disclosed incident reports; however, you asserted that MPD's response following your appeal did not address BWC footage, the primary substance of the request, or your arguments pertaining to Exception 3(B).

Discussion

It is the public policy of the District of Columbia that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body . . ." D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Official Code § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act, *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

Following your appeal, MPD reconsidered its initial denial and voluntarily disclosed incident reports that were previously withheld. In response to MPD's revised position, you indicated to this Office that you are primarily concerned with MPD's continued withholding of BWC footage.

The primary issue remaining to address on appeal is MPD's withholding of video recordings pursuant to Exemption 3(B). Exemption 3(B) exempts from disclosure investigatory records that were compiled for law enforcement purposes and whose disclosure would "deprive a person of a right to a fair trial or an impartial adjudication." D.C. Official Code § 2-534(a)(3)(B). As stated in your appeal, the standard for withholding under this exemption has been interpreted to require "(1) that a trial or adjudication is pending or truly imminent; and (2) that it is more probable than not that disclosure of the material sought would seriously interfere with the fairness of those proceedings." *Washington Post Co. v. DOJ*, 863 F.2d 96, 102 (D.C. Cir. 1988).

² MPD sent this Office a copy of its response on the same day.

Here, MPD has relied on conclusory assertions and speculation in denying the request for public records and failed to argue that it satisfies the burden of proof set forth in *Washington Post Co. v. DOJ*. See *id.* at 101.

Conclusion

Based on the forgoing, we find that your appeal is moot in part, insofar as it seeks documents created as a result of the interactions at issue. You are free to challenge the adequacy of MPD's disclosure of these documents by separate appeal to this Office.

We remand this matter to MPD in part, insofar as the appeal seeks BWC and video recorded by other means. Within five business days from the date of this decision, MPD shall review and disclose to you non-exempt portions of such BWC and video recorded by other means or provide a reasonable explanation of the basis for withholding in accordance with Exemption 3(B), as interpreted by *Washington Post Co. v. DOJ*, or other relevant exemptions under DC FOIA. You are free to challenge MPD's forthcoming substantive response by separate appeal to this Office.

This shall constitute the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Ronald B. Harris, Deputy General Counsel, MPD (via email)

Exhibit F



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
METROPOLITAN POLICE DEPARTMENT**

Transmitted by electronic mail

August 27, 2018

Ms. Shana Knizhnik

Re: FOIA Appeal 2018-145

Dear Ms. Knizhnik,

This is in response to the direction from the Mayor's Office of Legal Counsel to either provide you with non-exempt portions of BWC videos and any other videos that exist related to the actions of Metropolitan Police Department (department) officers in the 5200 block of Sheriff Road, N.E. on June 13, 2018 and June 25, 2018, or provide additional information that supports the withholding of the videos from release to you. The department denied your initial request asserting that release of the videos could interfere with an ongoing administrative investigation of the police actions on the specified dates pursuant to D.C. Official Code § 2-534(3)(B). The department explained further that release of the videos could lead to efforts to destroy evidence, reveal information about potential witnesses who could then be subjected to intimidation as part of an effort to frustrate future investigative activities or could place witnesses in danger.

The department maintains its initial position on your request. FOIA exemption (a)(3)(B) exempts from release "... investigatory records that were compiled for law enforcement purposes and whose disclosure would deprive a person of a right to a fair trial or impartial adjudication." The standard to be applied in determining whether the requirements of this exemption have been met is "(1) that a trial or adjudication is pending or truly imminent; and (2) that it is more probable than not that disclosure of the material sought would seriously interfere with the fairness of those proceedings." *Washington Post Co. v. DOJ*, 863 F.2d 96, 102 (D.C. Cir. 1988).

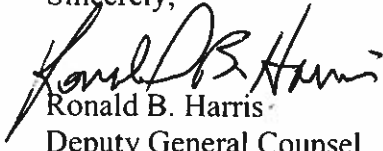
There is no question that the BWC videos were created for a law enforcement purpose. The department asserts that involved officers' rights to a fair or impartial adjudication would be adversely affected. With respect to the first prong of the standard, there is no pending trial or adjudicative proceeding. The department is currently engaged in active investigations of the officers' actions on the dates in question. As soon as the investigations have been completed, a determination will be made as to whether the administrative disciplinary process should be initiated against the subject officers. The due process protections afforded the subject officers by law and the collective bargaining agreement necessarily preclude the "truly imminent" scheduling of a disciplinary adjudication.

The police actions in question have garnered significant public interest. The release of the videos would make obtaining a fair and accurate assessment of the officers' actions extremely difficult. Involved persons could easily conform any statements or testimony to reflect what is in their interests as opposed to what actually transpired. Additionally, non-involved persons could

Knizhnik, Shana
August 27, 2018
Page Two

interject themselves into the investigation simply by reflecting what they saw in the videos. This would surely render any investigatory findings false. Attached is a declaration from an official attesting to the harmful effects release of the videos would have on the pending investigations and any future administrative adjudication of allegations of misconduct by the officers. You may make a request for the videos after the investigations have been finalized.

Sincerely,


Ronald B. Harris
Deputy General Counsel

Attachment: Declaration

DECLARATION OF KIMBERLY DICKERSON

I, being first duly sworn, depose and say that:

1. I am an Inspector and Director of the Internal Affairs Division (IAD) of the Metropolitan Police Department (MPD).
2. Amongst my duties as the Director is to oversee the investigations of allegations of misconduct of members of MPD.
3. It is my understanding that pursuant to the Freedom of Information Act (FOIA), a request has been made for the body-worn camera videos of officers who responded to the 5200 block of Sheriff Road N.E. on June 13, 2018 and June 25, 2018.
4. Eight-two videos have been identified as being responsive to the FOIA request.
5. MPD is currently administratively investigating the actions of all officers who responded to the 5200 block of Sheriff Road on the specified dates.
6. It is my belief based on twenty years of law enforcement experience that the release of the requested videos would interfere with the investigations of the involved officers' conduct. These investigations could result in disciplinary proceedings being commenced against those officers found to have acted improperly in violation of the law and/or department procedures. The police actions that were taken on the specified dates have garnered great public interest. Release of the videos would adversely affect the rights of involved officers to a just and fair adjudicative process should they be charged for engaging in misconduct.
9. Release of these videos would enable involved persons or witnesses to tailor their versions of what transpired to further their own interests, rather than accurately state the facts as they occurred at the time. Release of the videos would also make it possible for non-witnesses to interject themselves into the investigations simply by providing statements consistent with what

they saw in the videos. This would create a false narrative and result in inaccurate findings.

10. It is my assessment that no amount of redactions to the videos would make the videos appropriate for release. The redactions that would have to be made would essentially render the videos useless as faces and persons' bodies would have to be redacted in order to prevent anyone from being able to identify any person in the videos.

I declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that the foregoing is true and correct.

 8-27-18
Kimberly Dickerson Date

Exhibit G

GENERAL ORDER



DISTRICT OF COLUMBIA

Title		
Body-Worn Camera Program		
Topic	Series	Number
SPT	302	13
Effective Date		
March 11, 2016		
Replaces:		
GO-SPT-302.13 (Body-Worn Camera Program), Effective June 29, 2015		
Rescinds:		
TT 03-059-15 (Body-Worn Cameras – Annotation Requirements), Issued March 19, 2015		
TT 07-084-15 [Amendments to GO-SPT-302.13 (Body-Worn Camera Program)], Issued July 24, 2015		
TT 09-108-15 [Body-Worn Cameras (BWCs) and Internal Investigations], Issued September 29, 2015		
TT 11-008-15 (The Axon Body Worn Camera Mounting Tab), Issued November 3, 2015		
TT 12-076-15 [Body-Worn Cameras (BWCs) and Internal Investigations], Issued December 22, 2015		
TT 12-100-15 (Body-Worn Camera Program Amendment Act of 2015), Issued December 31, 2015		
Related to:		
GO-OPS-301.03 (Vehicle Pursuits)		
GO-PER-302.01 (Calls for Police Services)		
GO-SPT-303.01 (Traffic Enforcement)		
GO-OPS-304.11 (Intra-family Offenses)		
GO-SPT-401.01 (Field Reporting System)		

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I. BACKGROUND

The use of body-worn cameras (BWCs) by law enforcement has proven effective in reducing violent confrontations, uses of force, and complaints against officers. The purpose of this order is to outline the policy and procedures for the use of BWCs by members of the Metropolitan Police Department (MPD).

II. POLICY

It is the policy of the MPD to use BWCs to further the mission of the Department, promote public trust, and enhance service to the community by accurately

documenting events, actions, conditions, and statements made during citizen encounters, traffic stops, arrests, and other incidents, and to help ensure officer and public safety.

III. DEFINITIONS

1. Body-worn camera (BWC) – camera system with secured internal memory for storage of recorded audio and video that is designed to be worn on the clothing of or otherwise secured to a person.
2. BWC Unit Coordinators – members the rank of lieutenant or above who are designated by their commander to assist with the implementation and use of BWCs within their district or element by providing assistance and guidance to members who are assigned BWCs.
3. Central complaint number (CCN) – unique eight-digit number that the Office of Unified Communications (OUC) issues to MPD members upon request when recording events via an incident or offense report, arrest, or other type of event. The first two digits of the CCN correspond to the last two digits of the year in which the report is being taken.
4. Digital evidence – BWC files, including photographs, audio recordings, and video footage, captured by a BWC and stored digitally.
5. Docking station – hardware connected to MPD's network that is designed to offload recordings from the BWC.
6. Metadata – descriptors that identify the time, date, location, badge number linked to the creation of the record, and officer interaction/offense categorization of BWC recordings.
7. Member – sworn MPD employee or MPD Reserve Corps member.
8. MPD BWC Program Director – member who is designated by the Chief of Police to oversee the body-worn camera program. The MPD BWC Program Director may be contacted at bwc.project@dc.gov.
9. Official – sworn member the rank of sergeant or above.
10. Operational readiness – an operational and charged BWC with any data from the previous shift uploaded to an MPD-approved storage database.
11. School-based events – student or school-related crimes and incidents that involve students **and** occur on private, public, or charter school

grounds or within close proximity to schools. School-based events **do not** include safe passage assignments, non-critical contacts with students, or mediations of minor incidents.

12. Subject – an individual who is not an on-duty law enforcement officer at the time of the BWC recording and who has been recorded by a BWC.

IV. REGULATIONS

- A. Prior to being issued a BWC, members shall successfully complete MPD BWC training relating to this policy as well as for the activation, use, annotation, and uploading of data.
- B. Members shall follow existing officer safety policies when conducting enforcement stops as outlined in Department policies and procedures. Member safety shall be the primary consideration when contacting citizens or conducting vehicle stops, not the ability to record an event.

NOTE: Members are reminded that their BWC will “beep” twice every two minutes to remind them that their camera is activated. Members are cautioned that they should turn the “beep” volume down in situations when it may compromise their safety.

- C. Members shall:
 1. Mount their BWCs at the beginning of their shift in one of the methods approved by the Department (Attachment A) using only the MPD-issued mounting equipment.
 2. Wear the BWC for the entire shift.
- D. During their shift, members shall maintain their BWC in a constant state of operational readiness.
- E. When practicable, members shall inform contact subjects that they are being recorded at the beginning of the contact (e.g., “Ma’am/Sir, I am advising you that our interaction is being recorded.”)
- F. In accordance with GO-SPT-304.18 (Language Access Program), members shall ensure that they provide language access services to all limited and non-English proficient (LEP/NEP) persons in a timely and effective manner. Members shall provide LEP/NEP persons with a MPD Body Worn Camera Recording Notice (Attachment B) in the appropriate language at the beginning of the BWC recording when practicable.

NOTE: MPD Body-Worn Camera Recording Notices are available in the

following languages: Amharic, Chinese, French, Korean, Spanish, and Vietnamese.

- G. The viewing of BWC recordings at the scene of an incident is prohibited.
 - 1. Requests by subjects of BWC recordings shall be handled in accordance with Part V.F of this order.
 - 2. Requests by all other members of the public shall be referred to the Freedom of Information Act (FOIA) Office.
 - H. Members shall be aware that all recordings associated with BWCs are the sole property of MPD.
 - I. Members shall only use MPD-issued BWCs.
 - J. Members shall only use BWCs while they are on-duty and working in an official law enforcement capacity.
 - K. Overtime and Outside Employment
 - 1. Members working police-related outside employment or Department-sanctioned overtime (e.g., reimbursable details or nightlife deployments) **shall** wear their BWCs.
 - 2. Members who are wearing BWCs for either police-related outside employment or Department-sanctioned overtime:
 - a. **May** take their BWCs home on the shift prior to their assignment.
 - b. **Shall** notify the on-duty watch commander that they are taking their BWC home.

NOTE: Members who are working police-related outside employment or Department-sanctioned overtime are not entitled to any additional compensation for retrieving, wearing, or returning their BWCs.

 - 3. The watch commander shall document members who take home their BWCs on the PD Form 150 (Tour of Duty Supervisor's Report).
- L. Members **shall not**:
 - 1. Remove, dismantle, or tamper with any hardware or software component or part associated with BWCs or related applications.
 - 2. Destroy, disseminate, edit, alter, modify, tamper with, or otherwise use BWC recordings without the written permission of the Chief of Police. Members who tamper with BWC recordings may be subject to criminal investigation and prosecution.

3. Copy or download a BWC recording without written approval of an official. Members shall only share BWC recordings for official law enforcement purposes.
4. Delete any BWC recordings except as specified in Part V.C of this order (i.e., accidental recordings).
5. Record, view, download, or convert any BWC recording for personal use.
6. Use any other member's assigned BWC. If members inadvertently use any other member's assigned BWC, they shall notify an official immediately and send an email to bwc.project@dc.gov.
7. Use MPD-issued BWCs while off-duty or take their BWCs home unless a member is working outside employment or Department-sanctioned overtime; see Part IV.K.
8. Record on private space unless present for a lawful purpose.
9. Record personal activity.
10. Record conversations of members without their knowledge during routine, non-enforcement related activities.
11. Record gratuitous or obscene images, such as the effects of extreme violence or injury, unless necessary for evidentiary documentation.
12. Record a particular person based solely on the person's race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness status, physical disability status, matriculation, or political affiliation.
13. Record in places where a reasonable expectation of privacy exists, such as locker rooms or restrooms, unless the activation is required for the performance of official duties.
14. Intentionally or willingly record confidential informants or undercover members.
15. Use any other electronic device or other means to intentionally interfere with the capability of the BWC.
16. Post recordings to any social media site.
17. End a recording based solely on a citizen's request unless the citizen wishes to provide an anonymous tip. In cases where the citizen continues to request that a recording be turned off, and the member cannot resolve the issue, the member shall request that an official respond to the scene to assist.

- 18. View recordings for anything other than official law enforcement purposes.
- M. Members shall only store BWC recordings on MPD-approved storage databases. Members shall ensure all BWC data is uploaded at the end of their shift, and when necessary, during their shift, to ensure storage capacity of their BWC is not exceeded.
- N. Members are reminded that BWC recordings do not replace field reports or other required documentation.
- O. Members shall ensure they turn in their BWC prior to or at the end of their shift and store BWC devices in designated, secured storage locations at MPD facilities when devices are not in use, except as provided in Part IV.K of this order.
- P. Members who are in a less than full duty status for more than 30 days shall turn in their cameras to their BWC Unit Coordinator for reassignment in accordance with Part VI.D.3 of this order.
- Q. When reviewing BWC recordings, in accordance with GO-PER-120.21 (Disciplinary Procedures and Processes), members shall immediately notify officials upon observing, or becoming aware of, an alleged violation of Department policies, laws, rules, regulations, or directives.

V. PROCEDURES

- A. BWC-Equipped Members
 - 1. Members shall be responsible for the use and maintenance of their assigned BWC at all times.
 - 2. Prior to deployment, members shall:
 - a. Inspect and test their BWCs to ensure that they are operational and functioning properly. Upon inspection and testing, or at any time during their shift:
 - (1) If a BWC is lost, damaged or inoperable, members shall immediately notify a sergeant, who shall complete a PD Form 43 (Loss or Damage to District Government Property), and notify the MPD BWC Program Director.

- (2) If a BWC is lost, malfunctioning, or inoperable, members shall notify their watch commander and contact the MPD Help Desk for assistance. If a replacement BWC is not immediately available, the watch commander shall document the member's name and CAD number in the PD Form 150 (Tour of Duty Supervisors Report) and notify the BWC Unit Coordinator who shall be responsible for making sure a replacement is provided within two business days.
 - (3) If a member needs replacement accessories due to loss or damage (e.g., replacement cord), he or she may contact their BWC Unit Coordinator for a replacement.
 - b. Ensure they begin their shift with a fully charged BWC that does **not** contain data from a prior shift.
 - c. Notify the OUC that they are BWC-equipped over the radio.
 - d. Certify on their PD Form 775 (Daily Vehicle Inspection Report) that they are equipped with a BWC and document whether a recording was made for each run during their shift.
3. Members, including primary, secondary, and assisting members, shall start their BWC recordings as soon as a call is initiated via radio or communication from OUC on their mobile data computer (MDC), or at the beginning of any self-initiated police action.
4. In addition, members shall activate their BWCs for the following events:
- a. All dispatched and self-initiated calls-for-service;
 - b. All contacts initiated pursuant to a law enforcement investigation, whether criminal or civil;
- NOTE:** Members are **not** required to record non-investigatory contacts (e.g., business checks).
- c. All stops (i.e., traffic, pedestrian, and bicycle) and frisks as defined in GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks);
 - d. Vehicle and foot pursuits;
 - e. All traffic crash scenes;

- f. Any incident or traffic crash in which the member is involved;
- g. DUI and consumption of marijuana investigations;
- h. High-risk encounters (e.g., barricade situations, active shooter situations);
- i. Tactical activities, to include canine, Emergency Response Team, and Civil Defense Unit deployments;
- j. Encounters with mental health consumers;
- k. Suspicious activities;
- l. Use of force situations;
- m. Arrests;
- n. Encounters requiring the advising of Miranda rights;
- o. All transports of prisoners and citizens;
- p. Any of the following searches of a person or property:
 - (1) Consent searches;
 - (2) Warrantless searches;
 - (3) Vehicle searches;
 - (4) Searches conducted incident to arrest;
 - (5) Inventory searches;
 - (6) Cursory searches;
 - (7) Probable cause searches;
 - (8) Execution of search or arrest warrants;
 - (9) Field searches;
 - (10) Full-custody searches; and
 - (11) Strip or squat searches;
- q. Hospital guard details as outlined in Part V.A.9.b of this order;

- r. During the initial inventorying of seized money or any high value property;
 - s. During school-based events as defined in Part III.11 of this order as well as other encounters with juveniles during events defined in this section;
 - t. During First Amendment assemblies in accordance with Part V.A.7 of this order;
 - u. While assisting other law enforcement agencies (e.g., United States Park Police, District of Columbia Housing Authority Police) in handling incidents outlined in this section;
 - v. While interacting with citizens inside a police facility (e.g., station personnel providing police services or information); and
 - w. Any incident that a member deems appropriate to activate the BWC in accordance with this order or upon direction from an official.
5. Members may use BWCs to record initial interviews of victims, complainants and witnesses.
6. Traffic Posts
- While assigned to traffic posts, members shall **only** activate their BWCs for the events listed in Part V.A.4 of this order.
7. First Amendment Assemblies
- a. Members shall activate their BWC when responding to a First Amendment assembly in accordance with Part V.A.4 of this order.
 - b. In accordance with D.C. Official Code § 5-333.09, members **shall not** record First Amendment assemblies for the purpose of identifying and recording the presence of individual participants who are not engaged in unlawful conduct.
 - c. Members shall ensure BWC recordings of First Amendment assemblies, whether planned or spontaneous, are recorded in compliance with the law and MPD policy including SOP-11-01 (Handling First Amendment Assemblies and Mass Demonstrations).

- d. Members shall ensure BWC recordings of First Amendment assemblies are preserved and retained in accordance with this order and Appendix N, “*Records Retention*,” of SOP-11-01 (Handling First Amendment Assemblies and Mass Demonstrations).
 - e. Members shall ensure their recordings of First Amendment assemblies are categorized as “First Amendment Assembly” in the MPD-approved storage database.
- 8. Intrafamily, Sexual Assault, and Stalking Incidents and Offenses
 - a. Intrafamily Incidents and Offenses – members who respond to intrafamily incidents and offenses as outlined in GO-OPS-304.11 (Intrafamily Offenses) shall continue their BWC recording but make every effort to provide the victim privacy such that they **do not** record any discussions between the On-Call Advocacy Program (OCAP) advocate and the victim, regardless of whether the conversation is in-person or over the phone. Members shall position themselves in such a way as to afford the victim as much privacy as possible.
 - b. Sexual Assault Incidents and Offenses – members who initially respond to allegations of sexual assault shall continue their BWC recording but are reminded that, in accordance with GO-OPS-304.06 (Adult Sexual Assault Investigations), they shall ask only the necessary questions to enable them to determine the type of crime, and to obtain the required information for a lookout broadcast. Members **shall not** question the victim in detail about the offense.
 - c. Members are reminded, and may inform the victim or others present at the scene, that BWC recordings taken inside a personal residence or related to an incident involving domestic violence, stalking, or sexual assault will be withheld from release to the public.
- 9. Medical Facilities, Ambulances, and Patient Privacy
 - a. Members shall record ambulance transports when they are present for law enforcement purposes.
 - b. Members are reminded that they shall **only** activate their cameras in hospitals and other medical facilities for the events listed in Part V.A.4 of this order, including hospital guard details.

- c. Members shall not record in the common areas of medical facilities except when recording an event as required by Part V.A.4 of this order.
 - d. When recording in hospitals or other medical or psychiatric facilities, members shall be careful to avoid, when possible, recording persons other than the suspect, complainant, and witnesses.
 - e. When members are in hospitals or medical facilities pursuant to Part V.A.4, they shall continue to record and make every effort to provide patients with privacy such that they **do not** record patients during medical or psychological treatment or evaluations by a clinician or similar medical professional. Members shall position themselves in such a way as to afford the patients as much privacy as possible.
- 10. Members equipped with BWCs who are on the scene of an incident and are not the primary reporting member shall inform the reporting member of their BWC recording so that the primary member may record this information in his or her report.
 - a. The reporting members shall place the notation “*BWC Activated*” at the beginning of their non-public narrative in accordance with Part V.A.12 of this order.
 - b. The member with the BWC shall categorize the recording in accordance with Part V.B of this order.
- 11. Deactivation of BWCs
 - a. Once activated in accordance with this order, members shall not deactivate their BWC until/unless:
 - (1) They have notified the dispatcher of their assignment’s disposition, and they have cleared the assignment or, in the case of arrest, have transferred custody of the arrestee to another member.
 - (2) Their involvement in the citizen contact or detention has concluded.
 - (3) They receive an order from a higher-ranking member. In such cases, members shall document the order and the name of the official in their associated incident or arrest reports and on the BWC when practicable.

- (4) The search requiring activation as outlined in Part V.A.4.p of this order has concluded, and the member believes he or she will have no further interaction with the person or property.
 - (5) A pursuit has been terminated, and the member has returned to service through the dispatcher.
 - (6) In the event of a prolonged crime scene or an incident during which time they need to take a break (e.g., restroom break). In those cases, members shall contact the dispatcher to request a break and later document in the non-public narrative section of all related reports or their notebook the interruption of the BWC recording.
- b. In accordance with Part V.A.4.w, when members activate their BWCs and such activation was not required by policy, and the circumstances do not require continued recordings, they may use their discretion when deciding to deactivate their BWC.
 - c. After members deactivate their BWCs, they shall be aware that it is their responsibility to ensure they reactivate their BWC should the circumstances require it, even if the subsequent recording is being made for the same event.
 - d. In the event that a member must immediately respond to an event that requires his or her BWC to remain activated (i.e., the BWC recording never ceases between back-to-back events), the member shall enter the CCNs corresponding to both events in the BWC ID field in accordance with Part V.B of this order.

12. Reporting Requirements

- a. **Prior to the end of their shift**, members who are assigned BWCs shall:
 - (1) Document activation of the BWC device **at the beginning** of their non-public narrative on Field Contact Reports, Incident and Offense Reports, Traffic Crash Reports, and Arrest Reports in the Records Management System (RMS), as well as on PD Forms 42 (Injury or Illness Report), PD Forms 43, PD Forms 61D (Violation Citations) and notices of infraction (NOIs).
 - (a) The notation at the beginning of the narrative of associated reports shall be “*BWC Activated.*”

- (b) The member's last name, first name, and CAD number only need to be recorded if different from the reporting member listed on the report.
- (2) Document in the non-public narrative section of all related reports or their notebook any delay or failure to activate their BWC and any interruption of a BWC recording required by this order.
- (3) For search warrants, pre-planned arrest warrant executions, and forcible entries, label and categorize in accordance with Part V.G. Label and categorize all other recordings in accordance with Part V.B. of this order.
- (4) Upload recorded data to the storage database.
- (5) Charge their camera in an MPD-approved BWC docking station.

B. Labeling and Categorization of BWC Recordings

1. BWC Title Field

Members shall add a title – IN ALL CAPS – to each of their BWC recordings in the following format:

- a. Start date of recording (formatted as the year first (4 digits), followed by the month and day) - type of event - address (including the quadrant) (e.g., **20150220 - MISSING PERSON - 1751 M ST NW**)
- b. In cases where MPD is responding to an event being handled by another agency, the member should add the name of the other agency to the end of the title (e.g., **20150220 - MISSING PERSON - 1751 M ST NW - US CAPITOL POLICE**).

2. BWC ID Field

- a. Members shall enter the 8-digit CCN in the ID field (with no hyphens or dashes and without the word "CCN").
- b. If no CCN numbers were drawn for the event, the member shall:
 - (1) Enter the NOI or notice of violation (NOV) number in the ID field when applicable; or
 - (2) Type "NA" in the ID field rather than leaving the field blank to include events handled by a specialized

investigative unit or a non-MPD agency where no CCNs have yet been requested.

- c. All members who are assigned BWCs, to include those who are working as transport officers and members assigned to the station (e.g., cellblock, front desk), shall ensure that their BWC recordings are labeled and categorized appropriately **to include up to two CCNs** in the “ID” field separated by commas.
 - (1) For example, a transport member assigned a BWC who transports two arrestees, one arrested for Simple Assault, and another arrested in a separate incident for Theft I, must enter **both** related CCNs, separated by a comma.
 - (2) In the event that there are more than two CCNs associated with a recording, members shall enter the CCNs for the most serious offenses.
- d. Members are reminded that they shall limit discussions regarding other cases while in the presence of a BWC to the greatest extent possible. However, when another case is discussed, the recording member shall ensure the relevant CCNs are included in the “ID” field of the recording.

3. **Member BWC Categories**

- a. Members shall ensure all of their recordings are associated with at least one category and the most relevant category that applies from the priority list below is chosen.
- b. Members shall not use any category other than those listed below.
- c. Members shall select the BWC category corresponding to the most serious offense. The categories for use by members, listed in order of seriousness, are:
 - (1) **“For Supervisory Review”**
 - (a) The “For Supervisory Review” category applies to any recording that needs review by an official and possible extended retention due to one or more of the following circumstances:
 - (i) The member is injured or another member is injured or killed during the performance of their duties;

- (ii) There is any use of force by the recording member or another member;
 - (iii) The member is involved in an incident that results in a fatality including, but not limited to, in-custody deaths and crashes or vehicular pursuits resulting in a fatality; or
 - (iv) The member has reason to believe that the event may result in a complaint or the recording may be of use in a future court proceeding.
 - (b) When a member categorizes a recording as “For Supervisory Review,” the member shall notify his or her supervisor prior to the end of his or her shift.
 - (c) A supervisor shall review the recording within 24 hours in accordance with Part VI.A.5 of this order.
- (2) **“Murder / Manslaughter”**
 - (3) **“First and Second Degree Sexual Assault”**
 - (4) **“All Other Sexual Offenses”**
 - (5) **“Death Report / Suicide”**
 - (6) **“Crime Involving a Public Official - Felony”**
 - (7) **“Crime Involving a Public Official - Misdemeanor”**
 - (8) **“All Other Felonies”**
 - (9) **“Search or Arrest Warrant / Forcible Entry”**
 - (10) **“All Other Misdemeanors”**
 - (11) **“First Amendment Assembly”**
 - (12) **“Incident, No Arrest”**
 - (13) **“Contact/Stop/Civil Enforcement”** – includes:

- (i) All contacts initiated pursuant to a law enforcement investigation, whether criminal or civil (e.g., issuance of NOV); and
 - (ii) All stops (i.e., traffic, pedestrian, and bicycle), and frisks as defined in GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks).
- (14) **“BWC Testing”** – includes recordings taken by members to ensure their BWCs are operating properly.
- 4. Only BWC Unit Coordinators, the MPD BWC Program Director, or members assigned to the Court Liaison Division (CLD), the Office of Risk Management (ORM), or the FOIA Office shall record notes about BWC recordings.

C. Accidental Recordings

- 1. In the event of an accidental activation of their BWC where the resulting recording has no investigative or evidentiary value, members may submit a deletion request to their administrative captain through their sergeant who shall forward the same to the MPD BWC Program Director at bwc.project@dc.gov for review and tracking.
- 2. Members shall ensure the request contains sufficient information (e.g., date, time, member CAD number) to locate the recording.
- 3. The MPD BWC Program Director shall review accidental recordings and determine whether or not the recording had an official purpose. If the recording had no official purpose, the administrative captain or MPD BWC Program Director shall document this in the recording notes and delete the recording. An audit log on the history of every recording will be maintained in the storage database.

D. Access and Review

- 1. **Pursuant to the *Body-Worn Camera Program Amendment Act of 2015*, members involved in a police shooting shall not review their BWC recordings, or other members’ recordings, related to the case.**
- 2. In all other cases, members may view their BWC recordings and BWC recordings that have been shared with them to assist in accurate report writing, testifying in court, for training purposes, and debriefing. Members may also view their recorded data when they are the subject of criminal or administrative investigations in accordance with Part V.E of this order.

3. Recordings **shall not** be routinely or randomly viewed by officials for the sole purpose of enforcing policy violations observed on the recordings.
4. Members may only share recordings with other MPD members who have accounts on the MPD-approved storage database. Under no circumstances shall members share recordings with any non-MPD persons or members who do not have an account.
5. Only members the rank of sergeant and above, civilian equivalents, Internal Affairs Bureau (IAB) investigators, or FOIA specialists may download BWC recordings for investigations or authorized administrative purposes.
6. The United States Attorney's Office (USAO), the Office of Police Complaints (OPC), and the Office of the Attorney General (OAG) staff have their own accounts to the storage database; therefore, MPD members shall not share or download BWC recordings for these organizations.

E. Investigative Reviews and Member Access

1. Members who are conducting criminal investigations (e.g., investigators/detectives, members assigned to Major Crash Unit, Criminal Research Specialists) shall:
 - a. Review and re-categorize the recordings related to their investigations after making a determination of whether the BWC recordings are of evidentiary value. (See Part V.H of this order for retention categories).
 - b. Document their reviews of BWC recordings in the final investigative packet.
2. Uses of Force, In-custody Deaths, Serious Misconduct and Criminal and Administrative Investigations
 - a. Upon receipt of allegations of serious misconduct, as defined in GO-PER-120.23 (Serious Misconduct Investigations), that occur during their shift, watch commanders shall review BWC recordings as soon as possible, but in all cases prior to the end of their shift.
 - b. When obtaining Incident Summary (IS) numbers, whether by completing a PD-901c (Request for Incident Summary Numbers) or providing information to IAD for documentation in

Personnel Performance Management System (PPMS), officials shall document or provide the following:

- (1) Whether the subject member was wearing a BWC at the time of the incident.
 - (2) Whether the incident or allegation was in reference to, or involved the use or non-use of, a BWC.
 - (3) If any other members at the scene of the alleged incident were wearing BWCs.
- c. Officials shall ensure the narrative of the PD-901c and PPMS includes:
- (1) The notation "*BWC On-Scene*" in the beginning of the narrative when any member on the scene had a BWC assigned to them.
 - (2) A listing of each member, including the subject member, present at the incident, and documentation of each member's CAD number, whether that member was equipped with a BWC, and whether the BWC was activated.
- d. In the event of a serious use of force or in-custody death, the element watch commander shall ensure, and the responding IAD member shall verify, that all related BWC recordings are uploaded to the storage database as soon as possible.
- e. IAD members shall restrict access to BWC recordings related to criminal or sensitive allegations.
- f. Officials or IAD members preparing preliminary reports shall indicate if BWCs were present and who was equipped with the cameras by name and CAD number.
- g. When conducting internal or administrative investigations of incidents where BWCs are present, investigating officials shall:
- (1) View all available BWC footage as part of their investigation.
 - (2) **Add** a category [i.e., "Internal Affairs / Office of Police Complaints Investigation" and/or "Internal Investigations (e.g., Chain of Command Misconduct)"] to the recordings related to their investigations after making a

determination of whether the BWC recordings are of evidentiary value. (See Part V.H of this order for retention categories).

NOTE: Members are reminded of the importance of retaining the original category to ensure that evidence is maintained in accordance with retention requirements.

- (3) Certify and document that the facts as stated in their investigative findings are consistent with available BWC footage and that any discrepancies between subject, complainant, or witness statements and the BWC footage are noted and addressed.
 - h. When completing final internal investigations, officials shall also include the following information in the “Biographical Section” and any other sections of the investigation as appropriate:
 - (1) A listing of each member and their CAD number, including the subject member, present at the incident;
 - (2) Documentation of whether each member was equipped with a BWC, and whether the BWC was activated.
 - i. If for any reason, it is discovered that a member has violated this order regarding the use or activation of a BWC, investigating officials shall initiate a separate investigation to include creation of independent IS numbers to document the policy violation related to the BWC. In addition, investigating officials shall include these new IS numbers in the “Discrepancy Section” of the original investigative report, if one exists, in which the policy violation was discovered.
 - j. Prior to approving administrative investigations, all reviewing officials, to include the members of any relevant review boards (e.g., Crash Review Board, Use of Force Review Board) shall ensure the investigative findings are consistent with BWC footage and any discrepancies are noted and addressed.
3. Member Access
- a. **Pursuant to the *Body-Worn Camera Program Amendment Act of 2015*, members involved in a police shooting shall not review their BWC recordings, or other members’ recordings, related to the case.**

- b. In all other cases, members who are involved in a serious use of force, in-custody death, or are the subject of a criminal investigation may view their BWC recording related to the incident prior to completing and submitting any required reports and being interviewed by the appropriate investigative unit provided that:
 - (1) The member is in receipt of a declination from the prosecuting authority **or** after a Reverse Garrity Warning is issued; **and**
 - (2) The recording is viewed at the IAD or at a location approved by an IAD official.
- c. Members who are the subject of an administrative investigation may view their BWC recording prior to completing and submitting any required reports and being interviewed by the appropriate investigative unit.

F. Requests for BWC Recordings by Subjects

- 1. The subject of a BWC recording, his or her legal representative, or the subject's parent or legal guardian if the subject is a minor, may request to schedule a time to view the BWC recording at the police district where the incident occurred.
- 2. Members shall be aware that subjects may request to view BWC recordings online or at the district station.
 - a. Subjects may submit requests for recordings online at <http://mpdc.dc.gov/page/body-worn-camera-citizen-viewing-process> or by submitting a Request to Review Body-Worn Camera Recording (see Attachment C).
 - b. Members who receive requests to view BWC recordings by subjects or their representatives at the district station shall **immediately** notify their district's BWC Unit Coordinator, in writing, and forward requests to the MPD FOIA Office at mpd.foia@dc.gov.
- 3. The assigned MPD FOIA specialist shall conduct a privacy review of the video and determine if the un-redacted BWC recording violates the individual privacy rights of any other subjects of the recording and shall notify the BWC Unit Coordinator if the recording or a portion of the recording is eligible for viewing.

4. Upon notification from the FOIA Office that a recording is eligible for viewing, the BWC Unit Coordinator shall review the recording and confirm that the viewing of the recording would not compromise the safety of any other subject.
5. The BWC Unit Coordinator shall notify the subject whether the recording is available for viewing.
 - a. In cases where the recording is available, the BWC Unit Coordinator shall schedule a suitable time for the subject, his or her legal representative, or the subject's parent or legal guardian to view the recording under the following conditions:
 - (1) The subject, his or her legal representative, or the subject's parent or legal guardian if the subject is a minor shall provide a valid government-issued photographic identification [e.g., a driver's license, passport, green card (U.S. Permanent Resident Card) or military identification].
 - a. A subject's legal representative shall be required to provide the signed retainer or notarized document authorizing the attorney to view the BWC recording;
 - b. A subject's parent shall be required to provide a birth certificate for the subject; or
 - c. A subject's legal guardian shall be required to provide a certificate of legal guardianship of the subject.
 - (2) The subject, his or her legal representative, or the subject's parent or legal guardian must sign the PD Form 99-B (Consent to View Body-Worn Camera Recording) (Attachment D) prior to viewing the recording.
 - (3) The viewing must occur in the presence of the BWC Unit Coordinator.
 - (4) **Under no circumstances** shall the subject, his or her legal representative, or the subject's parent or legal guardian:
 - (a) Be allowed to use any recording device to make a copy of the BWC recording.

- (b) Be provided a copy of the recording. Subjects, or their representatives, may contact the FOIA Office to request copies of the recording.

b. Subject Complaints

A subject shall have the right to file a complaint at any time during the BWC review process. Members are reminded that all citizen complaints shall be handled in accordance with MPD policy including GO-PER-120.25 (Processing Citizen Complaints).

- (1) The BWC Unit Coordinator shall document his or her review of the recording with the requestor when making his or her recommendation on the PD Form 99-A (Citizen Feedback Form – Supervisor Review).
- (2) If the BWC Unit Coordinator is unable to locate the requested recording related to the complaint, he or she shall notify IAD of the subject's request to view the recording and of his or her negative search results when requesting IS numbers.

NOTE: BWC Unit Coordinators are reminded that most BWC recordings will be available for review by complainants for 90 calendar days from the date of the incident.

- (3) Notwithstanding the provisions of this order, a complainant's request to view a BWC recording prior to initiating a complaint is **voluntary**. Whether or not the complainant chooses to request to view the recording shall not be considered by members of the Department if the complainant chooses to proceed with the complaint.

G. Warrants and Forcible Entries

- 1. Absent exigent circumstances, the execution of all search warrants, pre-planned arrest warrants, and when practical, forcible entries being served in elements where BWCs are deployed shall have a BWC member in attendance with the BWC activated prior to making entry.
- 2. For the execution of search warrants, arrest warrants, and/or forcible entries related to an underlying criminal offense with pre-existing CCNs, members shall:

- a. Select the BWC category corresponding to the most serious underlying criminal offense; and
 - b. Label their BWC recording with up to two pre-existing CCNs in the “ID” field separated by commas. In the event that there are more than two CCNs associated with a recording, members shall enter the CCNs for the most serious offenses.
3. For the execution of warrants and/or forcible entries in cases without pre-existing CCNs, members shall:
 - a. Categorize the recording as “Search or Arrest Warrant/Forcible Entry”; and
 - b. Label their recording with the CCN obtained for the execution of the warrant and/or forcible entry.

H. Retention

1. Members shall ensure that BWC recordings are retained and accessible on the BWC database for a period of 90 calendar days unless they are categorized as follows:

Category	Retention
1. Murder / Manslaughter	65 Years
2. First and Second Degree Sexual Assault	15 Years
3. All Other Sexual Offenses	10 Years
4. Death Report / Suicide	10 Years
5. Internal Affairs / Office of Police Complaints Investigation	10 Years
6. Crime Involving a Public Official Felony	9 Years
7. Crime Involving a Public Official Misdemeanor	6 Years
8. All Other Felonies	6 Years
9. Search or Arrest Warrant / Forcible Entry	6 Years
10. Internal Investigations (e.g., Chain of Command Misconduct)	5 Years
11. First Amendment Assembly	3 Years
12. All Other Misdemeanors	3 Years
13. For Supervisory Review	90 Days

14. Incident, No Arrest	90 Days
15. Contact / Stop / Civil Enforcement	90 Days
16. No-Papered Arrest*	90 Days
17. BWC Testing	90 Days
18. Recruit Training	90 Days
19. FOIA	Indefinite
20. FOIA/Civil Litigation Hold	Indefinite
21. Juvenile Victim [Youth and Family Services Division (YFSD) ONLY]	Indefinite
22. Pending Warrant / Papered Case / Ongoing Criminal Investigation	Indefinite
23. Redacted	Indefinite
24. Training	Indefinite

*NOTE: The “No-Papered Arrest” category shall be added for both misdemeanor and felony offenses in accordance with Part VI.I of this order.

2. Members assigned to YFSD shall ensure that BWC recordings categorized as “Juvenile Victim [Youth and Family Services Division (YFSD) ONLY]” are retained in accordance with each case’s applicable statute of limitations.
3. Members shall ensure all other BWC recordings with an “indefinite” retention period are retained until all related criminal proceedings, claims, litigation, litigation holds, complaints, or related incidents are resolved, after which time they will be expunged.
4. Members shall ensure that digital evidence captured by BWCs are treated as official records and handled pursuant to existing Department policies and procedures including, but not limited to, SO-06-03

[Records Retention and Evidence Preservation (Millicent Allewelt Act of 2004)].

I. BWC Recordings Used in Training

1. Members are encouraged to notify their officials of any recordings that may be of value for Department-wide training purposes.
 - a. Members recommending the use of a BWC recording for Department-wide training purposes shall submit the request through the chain of command to the Commanding Official, Metropolitan Police Academy (MPA) for approval.
 - b. Prior to approving the use of a BWC recording for Department-wide training, the Commanding Official, MPA, shall:
 - (1) Take into consideration the identity of the persons involved, the sensitivity of the incident, and the benefit of using the file versus other means.
 - (2) Confirm with the MPD Privacy Officer that appropriate redactions are made to recordings prior to them being used in training.
 - c. The Commanding Official, MPA, shall ensure that recordings authorized for training are categorized as "Training" in the MPD-approved storage database.
2. When reviewing BWC recordings, officials are encouraged to identify recordings that can serve as guidance on how to handle particular incidents or events as well as recordings where constructive feedback may be appropriate. Identified recordings may be reviewed with assigned members, to include during roll call, to discuss tactical decision-making and/or to improve officer safety.
 - a. Officials shall ensure they notify their district/element commanding official through the chain of command prior to reviewing the recording with members.
 - b. Officials shall notify the watch commander following the BWC review to include providing the associated CCN, name of the recording member, and date of recording for inclusion on the PD Form 150 (Tour of Duty Supervisor's Report).

VI. ROLES AND RESPONSIBILITIES

A. Sergeants shall:

1. Ensure cameras are not issued to members who have not received MPD BWC training.
2. At the beginning of each shift:
 - a. Ensure members are equipped with fully-charged, functioning BWCs, and have the appropriate mounting equipment to support the BWC.
 - b. Inspect each member who is issued a BWC to ensure that it is being worn correctly and functioning.
 - c. Ensure digital evidence recorded from previous shifts has been uploaded prior to issuing BWCs.
 - d. When notified of a damaged or inoperable BWC, ensure a PD Form 43 is completed, and any damaged or malfunctioning equipment is returned to the MPD BWC Program Director for repair or replacement.
3. Track and manage the assignment of the cameras daily.
4. Ensure members who are deployed with BWCs are noted on the roll call and deployment statistical sheets, and that the number of members with BWCs is called into the CIC each shift.
5. In accordance with Part V.B.3.c.(1) of this order, review and **re-categorize** all recordings categorized as "For Supervisory Review."
6. Conduct regular inspections during check-off to ensure members have recorded required events and are categorizing their BWC recordings appropriately.
7. Ensure members turn in their BWCs prior to the end of their shift and store BWC devices in designated, secured storage locations at MPD facilities when devices are not in use.

- ### B.
- Check-off sergeants who have BWC-assigned members on their shift shall ensure they complete the PD Form 1000 (MPD BWC Check-off Form) (Attachment E) prior to the end of their shift and submit the completed form to their watch commander.

C. Watch Commanders shall:

1. Ensure that members who are assigned BWCs are certifying in their PD Form 775 that they are equipped with a BWC and documenting whether a recording was made for each run during their shift.
2. Submit completed PD Forms 1000 along with their PD Forms 150 (Tour of Duty Supervisor's Report).
3. If notified that a BWC is lost, malfunctioning, or inoperable, and a replacement is not immediately available, document the member's name and CAD number in the PD Form 150 (Tour of Duty Supervisors Report) and notify the BWC Unit Coordinator who shall be responsible for making sure a replacement is provided within two business days.

D. BWC Unit Coordinators shall:

1. Provide assistance and technical support to members in their assigned units who have BWCs.
2. Ensure members with malfunctioning or inoperable BWCs receive a replacement BWC within two business days of being notified of the malfunction.
3. Handle the reassignment of BWCs for members in a less than full duty status for more than 30 days to include notifying the MPD BWC Program Director, Telecommunications, and the Equipment and Supply Branch of the reassignment.
4. Conduct periodic reviews of BWC recordings to ensure that members are recording mandatory events as outlined in this order.
5. Based on the BWC assignment information provided by the Equipment and Supply Branch on a quarterly basis, conduct reconciliation and ensure any incorrect BWC assignment information is corrected and that the Equipment and Supply Branch is notified.
6. Review and respond to the MPD Privacy Officer's quarterly report of storage database users for their specific element.

E. District/Element Commanding Officials shall:

1. Ensure all members have been properly trained on all related BWC directives to include the activation, use, annotation, and uploading of data, prior to being issued a BWC, in accordance with Part IV.A of this order.

2. Ensure that daily reviews of the recordings for that district are tagged and properly notated and assigned for corrective action by the next working day of the officer.

F. The MPD BWC Program Director shall:

1. Serve as the designated custodian of records for all BWC recordings.
2. Serve as the system administrator of any BWC software applications.
3. Be responsible for approving, coordinating, and managing all external requests for BWC recordings, including those from other law enforcement agencies.
4. Monitor recordings that are about to reach the end of their retention period.
5. Monitor the deletion of all accidental recordings.
6. Ensure BWC recordings are secured and retained as outlined in this order.
7. Ensure that metadata is retained by the Department for no less than five years.
8. Work with the MPD Property Officer and Office of the Chief Information Officer to ensure all recordings are stored in an MPD-approved storage database.
9. Assist in the coordination of all internal and external communications regarding BWC policies.
10. Serve as the primary point of contact with the BWC vendor.

G. The Commanding Official of the Equipment and Supply Branch shall:

1. Be responsible for the distribution and replacement of BWCs.
2. Provide BWC Unit Coordinators a listing of all assigned BWCs on a quarterly basis for reconciliation.

H. The Director of the FOIA Office shall ensure requests for BWC recordings and information from the public are received and processed in accordance with GO-SPT-204.05 (Freedom of Information Act Requests) and D.C. Official Code § 2-531.

- I. The Commanding Official of the CLD shall ensure BWC recordings of papered cases and no-papered arrests are categorized appropriately (i.e., “Warrant/Papered Arrest/Ongoing Criminal Investigation” or “No Papered Arrest”).
 1. If a felony case is not papered, the “No Papered Arrest” category shall be **added** in addition to the previous felony category.
 2. If a misdemeanor case is not papered, the “No Papered Arrest” category shall be **added** in addition to the previous misdemeanor category.
- J. The Commanding Official of the Office of Risk Management shall:
 1. Notify the MPD BWC Program Director to retain BWC recordings associated with pending claims.
 2. Ensure periodic audits are conducted of BWC recordings including audits consistent with the *Body-Worn Camera Program Amendment Act of 2015*. Audits shall include:
 - a. Member performance, training, and equipment needs.
 - b. Consistency between written reports and recordings.
 - c. The impact of BWCs on the number and type of citizen complaints filed with the Department.
 - d. The impact of BWCs on the number of use of force incidents.
 - e. The total number of contacts between police and the public.
 - f. Maintaining proper and secure access to shared or retained BWC recordings.
 - g. Compliance with this order.
- K. The MPD Privacy Officer shall:
 1. Work with the Director of the Office of Risk Management on periodic audits to ensure:
 - a. Recordings do not violate the privacy of citizens or members and adhere to the required policy.
 - b. External and internal subscribers to MPD’s BWC storage site are validated.

2. Coordinate annual reviews of BWC recordings with “indefinite” retention periods to ensure they are still subject to being retained.
 3. Monitor the BWC vendor’s privacy practices.
 4. Assist with drafting memorandums of understanding (MOUs) with outside agencies that want access to BWC recordings.
 5. Conduct periodic audits to confirm that the proper protection of individuals’ privacy rights have been afforded in accordance with the *Body-Worn Camera Program Amendment Act of 2015*.
- L. The Chief Technology Officer, MPD Office of the Chief Technology Officer, shall ensure:
1. BWC equipment malfunctions and failures are documented and repairs are requested in a timely manner.
 2. Docking stations are installed and maintained.
 3. A tiered support response is coordinated to assist sergeants with fixing more complex camera and docking station issues.
 4. All members and approved staff from other agencies have accounts to the storage database.
- M. The Commanding Official of the MPA shall assist in coordinating training for members who will be assigned cameras.

VII. CROSS REFERENCES

- A. GO-PER-120.21 (Disciplinary Procedures and Processes)
- B. GO-PER-120.23 (Serious Misconduct Investigations)
- C. GO-PER-120.25 (Processing Citizen Complaints).
- D. GO-SPT-204.05 (Freedom of Information Act Requests)
- E. GO-OPS-304.06 (Adult Sexual Assault Investigations)
- F. GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks)
- G. GO-OPS-304.11 (Intrafamily Offenses)
- H. GO-SPT-304.18 (Language Access Program)

- I. GO-SPT-401.01 (Field Reporting System)
- J. SO-06-03 [Records Retention and Evidence Preservation (Millicent Allewelt Act of 2004)]
- K. SOP-11-01 (Handling First Amendment Assemblies and Mass Demonstrations)
- L. D. C. Official Code § 2-531 (Freedom of Information, Public Policy)

VIII. ATTACHMENTS

- 1. Attachment A: TASER BWC, Approved Wearing Methods
- 2. Attachment B: MPD Body-Worn Camera Recording Notice
- 3. Attachment C: Request to Review Body-Worn Camera Recording
- 4. Attachment D: PD Form 99-B (Consent to View Body-Worn Camera Recording)
- 5. Attachment E: PD Form 1000 (MPD BWC Check-off Form)



Cathy L. Lanier
Chief of Police

CLL:PAB:MOC:BK

TASER BWC Approved Wearing Methods

TASER AXON Body 2 Camera

The AXON Body 2 Camera has the camera (audio and video) and the battery in the same device.

Directions for Wearing the AXON Body 2 Camera

1. The top part of the AXON Body 1 Camera is where the Power Button is located. The serial number is located on the bottom of the camera.



2. The Axon Body 2 camera shall be mounted on the member's chest so that the top of the camera is not above the collarbone, the bottom is not below the sternum, and the sides are between the shoulders.
3. The Axon Body 2 camera is designed to work with the new Axon RapidLock mounting system. The RapidLock mounting system consists of the attachment piece (called the key) on the camera and the various mounting options including the attachment receiver (called the lock). To engage the Axon RapidLock, insert the key of the camera into the lock of the mount and turn it 90 degrees counterclockwise (when you are looking straight at the mount). To release the camera from the mount, turn the camera 90 degrees clockwise.

The various mounts that use this system can be used with a wide variety uniforms, and holds the camera to your shirt, patrol vest, jacket, or belt.

4. The Axon Body 2 camera may be mounted utilizing a magnetic mount or a Z-clip.
 - a. Magnetic Mount – The magnetic mount is intended to be used with cold-weather gear. This mount is made up of two pieces: the exterior plate, which is mated to the BWC, and the interior plate. As a general guideline, the interior plate should be placed between the jacket liner and shell so that the interior plate and exterior plate are as close to one another as possible, compressing the shell only.

- b. Z-clip – Rotate the z-clip so it fits with your shirt style. Please note that the z-clip is the same for both men and women, but its use differs. To use it with a woman's shirt, it should be held right-side up. For men, the z-clip should be spun 180 degrees. Place the Axon Body 2 camera into the clip and rotate it upright, locking the Axon Body 2 camera into the clip.

TASER AXON Body 1 Camera

The AXON Body 1 Camera has the camera (audio and video) and the battery in the same device.

Directions for Wearing the AXON Body 1 Camera

1. The top part of the AXON Body 1 Camera is where the Power Button is located. The serial number is located on the back and bottom of the camera.



2. The Axon Body 1 camera shall be mounted on the member's chest so that the top of the camera is not above the collarbone, the bottom is not below the sternum, and the sides are between the shoulders.
3. There are two mounts to the AXON Body 1 Camera; the camera comes with an S-clip case that slides over your shirt button to lock into place, and there is also a holster that slides onto your pocket. Directions for the S-clip are slightly different for men's versus women's shirts:

For men's shirts:

- a. Snap the camera into its case if it is not already attached. The straight edge of the clip will be at the top.
- b. Slide the right-hand side of the case between two buttons toward the top of the shirt. Push the right side of the shirt into the clip in the back. This part of the clip will be left *outside* the shirt.
- c. Next, tuck the left side of the case *under* the shirt, and push the left side of the shirt into the clip in the back.
- d. Slide the case down to snap over the shirt button. The case will lock in place.

For women's shirts:

- a. Snap the camera into its case if it is not already attached. The straight edge of the clip will be at the bottom.
- b. Slide the left-hand side of the case between two buttons toward the top of the shirt. Push the left side of the shirt into the clip in the back. This part of the clip will be left *outside* the shirt.
- c. Next, tuck the right side of the case *under* the shirt, and push the right side of the shirt into the clip in the back.
- d. Slide the case down to snap over the shirt button. The case will lock in place.

TASER AXON Flex

The AXON Flex Camera has two components: a smaller camera and a separate battery from which you operate the camera, called a Controller. The Flex Camera is linked to the Controller by a thin cable.

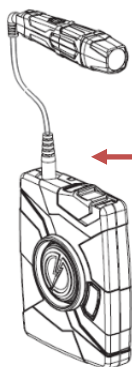
Directions for Wearing the AXON Flex Camera

The Controller functions as the battery and the device used to turn the camera on/off, adjusting the volume, etc. The Controller looks like the AXON Body Camera, but has no lens on the front.

1. The top part of the Controller is where the Power Button is located. The speaker is on the smaller camera. The serial number is located on the back of the Controller, not the camera.



2. The Flex Camera must attach to the Controller in order to power up and record properly. The square end of the cable attaches to the bottom of the camera, and the other end of the cable to the top of the Controller.



← Cable that links camera to Controller (actual cable much longer)

3. The Controller can be stored in your pocket as is or in a holster attached to your belt. To attach to a belt, secure the Controller in its holster, ensuring the top of the camera aligns with the lever on the top of the case that toggles back and forth to expose the cable port. Next, slide the metal clip that came with the holster into the back of the holster to secure to your belt.

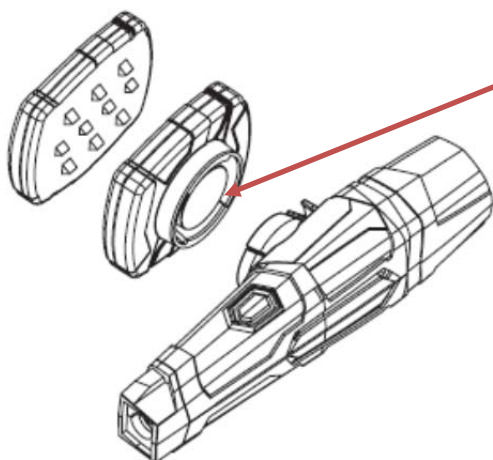
Directions for Mounting the AXON Flex Camera

There are several mounts for the Flex Camera, each clipped on using a strong magnet. The magnetic clip allows rotation of the camera up and down to adjust the angle after it has been connected to the mount.

The three mounts that MPD will be utilizing are the Collar Mount, the Low-Rider Headband and the Oakley Glasses Mount. The mounts should always be worn so that the Flex Camera is on the side that the officer wears his/her firearm.

Collar Mount

There are two magnetic clips to hold the collar mount to your shirt collar, one for each side of the collar. Each clip features a set of teeth on one side and a ring on the other; the sides with the teeth are magnetically attracted to each other.



Ring where camera is mounted

To use the collar mount:

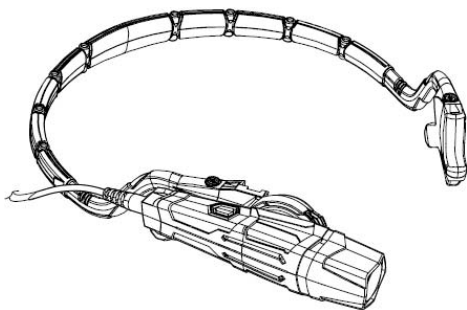
1. Place the collar mount around the back of your neck.
2. Snap the teeth to the inside of the collar on the side of the shirt where the camera will not be mounted and attach the closed ring to the other side.
3. On the other side of the shirt, where the camera clip will be worn, snap the teeth to the inside of the shirt and attach the open ring to the other side.
4. Snap the camera into the open ring, with the lens facing forward.
5. Connect the camera/Controller cable to the bottom of the camera. Ensure that the cable does not obstruct the motion of your head. If the cable is exposed down a good portion of your back, hide it under your shirt.
6. Plug the other side of the cable into the Controller.

Low-Rider Headband Mount

There are two sizes of the headband mount: regular and large.

To use the headband mount:

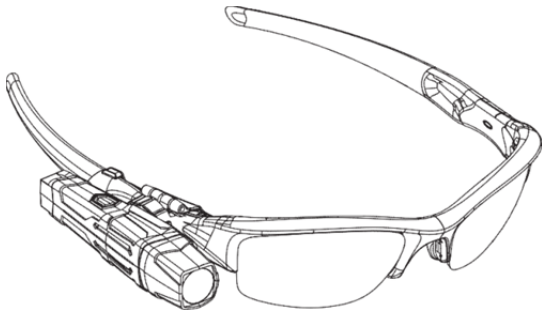
1. Slip the headband behind your head.
2. Snap the camera into the open ring, with the lens facing forward.
3. Connect the camera/Controller cable to the bottom of the camera. Ensure that the cable does not obstruct the motion of your head. If the cable is exposed down a good portion of your back, hide it under your shirt.
4. Plug the other side of the cable into the Controller.

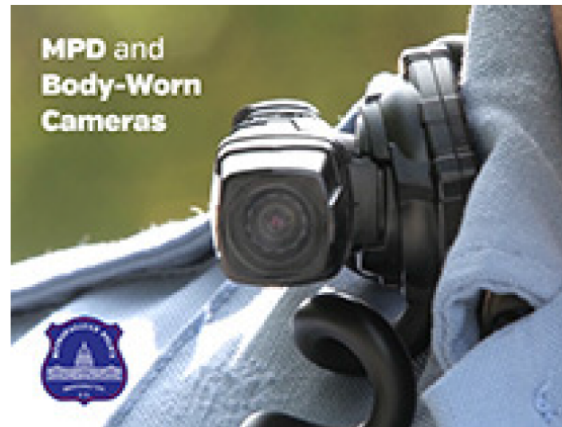


Oakley Eyewear Mount

1. Select whether you want to have sunglasses or clear glasses on.

2. Slip the glasses on your head.
3. Snap the camera into the open ring, with the lens facing forward.
4. Connect the camera/Controller cable to the bottom of the camera. Ensure that the cable does not obstruct the motion of your head. If the cable is exposed down a good portion of your back, hide it under your shirt.
5. Plug the other side of the cable into the Controller.





**Please be advised that our
interaction is being video
recorded with my camera.**

FRONT

FRENCH

**Veillez noter que j'enregistre notre échange sur
vidéo-caméra.**

VIETNAMESE

**Xin lưu ý rằng hoạt động giao tiếp của chúng ta
được ghi hình bằng máy quay của tôi.**

CHINESE

**请注意，我会用我的摄像机将我们之间的交谈和交
往录制下来。**

SPANISH

**Se le advierte que esta siendo videograbado nues-
tra interacción o comunicación con mi cámara.**

KOREAN

모든 대면 및 대화가 카메라로 녹화되고 있음을 알립니다.

AMHARIC

**እባክዎ የእኔ እና የእርስዎ ውይይት በካሜራፊ
ሺድዮ አየተቀዳ መሆኑን ይወቁ።**

BACK



REQUEST TO REVIEW BODY-WORN CAMERA RECORDING

I am requesting to view a body worn camera recording or recording. **I am the subject of the recording, the subject's legal representative, or the subject's parent or legal guardian if the subject is a minor.** I understand that to view the recording I must be the only individual in the recording except officers of the Metropolitan Police Department (MPD) or other law enforcement agencies. I agree to view the recording in the presence of an MPD official.

My identity will be checked again when I return to view the recording to confirm I am the same person who made the request. I will not bring any recording device to duplicate the video or audio. I understand that I will not receive a copy of the recording. If I want to request a copy of the recording, I need to contact the MPD Freedom of Information Act (FOIA) Office (<http://mpdc.dc.gov/page/open-government-and-foia-mpdc>). Body worn camera recordings are considered law enforcement records and are the property of MPD.

The recording occurred at least 48 hours ago (to ensure the recording is uploaded into the MPD storage database).

PART I: REQUESTER INFORMATION	
To assist in scheduling a viewing of the requested recording, please do not leave contact information blank.	
1. Requester's Name:	2. Requester's Telephone Number: ()
3. Requester's E-mail Address:	
4. CHECK ONE: (If you are unable to specify one of these, then you will be unable to view the recording) <div style="display: flex; justify-content: space-around; align-items: center;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> <div style="display: flex; justify-content: space-around; align-items: center;"> I am the Subject of the Recording Subject's Legal Representative Subject's parent/legal guardian </div>	
PART II: INCIDENT INFORMATION	
To assist in the search for the recording, please provide as much information as available.	
4. Central Complaint Number (CCN):	5. Location of Incident:
6. Date of Incident:	12. Time of Incident:
13. Name(s) and Badge Number(s) of Officer(s) with Body Worn Cameras:	
14. Description of Incident:	
15. Please provide a description of yourself and the clothes you were wearing at the time of the incident (This is needed for identification purposes and to ensure you are the subject of the recording):	
PART III: SIGNATURE	
15. Printed Name and Signature of Requester	
Date of Request	
In order to establish your eligibility to view the requested recording, MPD will need to establish your identity and/or relationship to the subject of the recording. See Identification Requirements attached to this form.	
PART IV: MPD USE ONLY	
16. Received by (print name):	17. ID/Proof of Relationship
18. Signature:	19. Date Received:
Scan and e-mail the request to mpd.foia@dc.gov and District BWC Coordinator within 24 hours of receipt.	

Identification Requirements

In order to establish your eligibility to view the requested recording, MPD will need to establish your identity and/or relationship to the subject of the recording. The following documents are required to establish the identity of:

Subject of Recording

- Valid government-issued photographic identification (e.g., a driver's license, passport, U.S. Permanent Resident Card or military identification)

Legal Representative

- Valid government-issued photographic identification (e.g., a driver's license, passport, U.S. Permanent Resident Card or military identification); AND
- Signed retainer agreement or notarized document authorizing the attorney to view the BWC recording.

Parent

- Valid government-issued photographic identification (e.g., a driver's license, passport, U.S. Permanent Resident Card or military identification); AND
- Birth certificate of the subject

Legal Guardian

- Valid government-issued photographic identification (e.g., a driver's license, passport, U.S. Permanent Resident Card or military identification); AND
- Certificate of legal guardianship of the subject



CONSENT TO VIEW BODY-WORN CAMERA RECORDING

I hereby request to view the below referenced body-worn camera recording. I am the subject of this recording, or I am the subject's legal representative, parent, or legal guardian (if the subject is a minor). I understand that I will be required to provide proof of my identity, by showing my government-issued photographic identification (e.g., driver's license, passport, green card [U.S Permanent Resident Card] or military identification), to ensure that I am the individual who initially requested to view this recording.

I will not be able to view recordings that contain images or other identifying information of other people, with the exception of Metropolitan Police Department (MPD) or other non-federal law enforcement agencies. Further, I may only be able to view portions of the entire recording in order to protect the identity of others in the recording.

If a personal residence is shown in the recording, I will only be able to view the recording if it is my personal residence.

I understand that I must view the recording in the presence of an MPD official, and that I may not use any recording device to duplicate or record the video or audio. I will not receive a copy of the recording as it is considered a law enforcement record, and, as such, it is the property of MPD.

I understand that if I want a copy of the recording, I will need to request a copy of the recording in person or by contacting MPD's Freedom of Information Act Office online at <https://foia-dc.gov/palMain.aspx>.

By signing this form, I am indicating that I am the subject of the recording, the subject's legal representative, or the subjects' parent or legal guardian (if the subject is a minor); and I have read this form and agree to the statements set forth herein.

PART I: SUBJECT'S INFORMATION		
1. Subject's Name		
2. Name of Subject's legal representative or the subjects' parent or legal guardian if the subject is a minor:		
PART II: SIGNATURE		
3. Signature of Subject/Legal Representative/Guardian		Date
PART III: MPD USE ONLY		
4. Received by (print name):	5. CCN#	6. Receiving Member's CAD:
7. Type of ID provided:		
8. Signature:		9. Date Received:
Scan and e-mail the consent to mpd.foia@dc.gov and District BWC Coordinator within 24 hours of receipt.		

PD Form 1000 - MPD BWC Check-off Form



(1) District:

(2) Check-off Official:

(3) Check-off Official CAD ID:

(4) Date:

(5) Shift:

(6) # Officers on Shift:

(7) # Assigned BWC:

(8) # BWCs Deployed on Shift:

NOTE: Officers shall have at least one BWC recording per run. If they do not, the official shall initiate an investigation in accordance with GO-SPT-302.13 (Body-Worn Camera Program).

CHECK-OFF OFFICIAL CERTIFICATION

Check-off officials shall complete this certification section for all members who completed their shift (i.e., members who have checked-off).

(9) I certify that all BWC-assigned officers took recordings for all runs:

NOTE: If no, complete table (11) below

Signature

(10) I certify that all reports are completed and approved in accordance with GO-SPT-401.01 (Field Reporting System):

Signature

(11) BWC Officers who did not take a video for all runs:

Officer Name	Officer CAD ID	Number of Runs	Number of BWC Videos	Notes	119 Taken?
					<input type="checkbox"/>
					<input type="checkbox"/>
					<input type="checkbox"/>
					<input type="checkbox"/>
					<input type="checkbox"/>
					<input type="checkbox"/>
					<input type="checkbox"/>
					<input type="checkbox"/>