

## I. Definitions

- A. Body-Worn Camera (BWC): overt mobile audio- and video-capture device issued by the Rochester Police Department (RPD) designed to be worn by RPD employees in the course of their duties.
- B. BWC Program Manager: A sworn supervisory member assigned to the Research and Evaluation Section (R&E) who is responsible to supervise and coordinate the administrative duties within R&E relating to the BWC Program.
- C. BWC Recordings: Audio and video recordings, and associated metadata from BWCs.
- D. BWC System: the body-worn camera, and all associated equipment, networks, and software, including storage of recordings in a City of Rochester server.
- E. BWC System Administrator: an RPD employee or City Information Technology (IT) Department employee who have been granted full access and data management rights within the BWC data storage system.
- F. Critical Incident: An unusual occurrence or event that requires a coordinated law enforcement response to protect identified potential victims, general public safety, and police. This includes barricaded armed subjects; active killers or snipers; hostage situations; violent protests, demonstrations, or other civil disturbances; transportation disasters (e.g., plane crash, train derailment, etc.); weather disasters; and major HAZ MAT situations.
- G. Digital Media Evidence (DME): BWC recordings and associated metadata that may be utilized as evidence.
- H. Docking Station: Hardware connected to RPD's network that is designed to offload recordings contained on the BWC.
- I. Enforcement Actions: For purposes of this Manual, "enforcement actions" include:
  - 1. arrests (including issuance of appearance tickets and mental hygiene arrests);

2. street stops and field interviews as defined by G.O. 570, *Field Interview Form*; and,
    - a. Note: includes temporary questioning of persons in public places and searches for weapons pursuant to NY Criminal Procedure Law § 140.50.
  3. use of force or deadly physical force as defined by G.O. 335, *Subject Resistance Report* and NY Penal Law § 10.00-11.
- J. Reserved
- K. Mandatory Recording: any event or activity that requires BWC recording under this Manual.
- L. Metadata: data entered into or generated by the BWC System that provides context or additional information about BWC recordings.
- M. Optional Recording: any event or activity that recording is permitted but not required by this Manual.
- N. Prohibited Recording: an event or incident for which BWC recording is prohibited by this Manual.
- O. Serious Incident: any incident or event which involves use of deadly physical force by a police officer, or results in serious physical injury or death to any person as a result of police action or involvement, including use of force or deadly physical force, vehicle or foot pursuits, motor vehicle accidents, other accidental injury or death, or any death or serious physical injury occurring while in police custody.
- P. Tag: the process used to label an individual BWC recording using HD Protech DME software and issued equipment in accordance with retention categories established by RPD, and with the assigned CR#.
- Q. Reserved

## **II. Use of BWCs**

- A. RPD will utilize BWCs in accordance with law, this Manual, and other applicable departmental policies, procedures, rules, and regulations.

- B. BWCs, all associated equipment and software, and all recordings and other data produced by the BWC system are the sole property of the City and exist for the sole use of RPD.
- C. Members who are issued BWCs will use them in accordance with this Manual and other applicable departmental policies, procedures, rules, and regulations.
- D. Members may use BWCs only for official RPD duties. Members may not use BWCs for personal reasons, additional employment, or any other non-RPD purpose.
- E. BWC recordings will not replace required reports or other required documentation.
- F. No video or audio recording produced by a BWC will be copied, duplicated, downloaded, converted, or retained except as authorized for official RPD purposes.
- G. Members will not post BWC recordings to the Internet, social media sites, or the media, or otherwise disseminate BWC recordings in any way unless specifically authorized by the Chief of Police. *See G.O. 390, Social Media.*
- H. RPD will review and retain BWC recordings in accordance with the retention schedule established in Appendix A.
- I. No RPD employee will change the settings and functions of a BWC, or alter the operation of any BWC or attempt to do the same unless assigned as a System Administrator and specifically authorized to do so by departmental policy.
- J. No RPD employee will use an electronic device or any other means in order to intentionally interfere with or alter the capability or operation of a BWC or any component of the BWC System.
- K. No RPD employee will alter, tamper with, delete, damage, or destroy any BWC or BWC recording or attempt to do the same unless assigned as a System Administrator and specifically authorized to do so by departmental policy.
- L. No RPD personnel will wear or use a privately owned BWC, or any other BWC not issued by the Department, while performing any duties on behalf of RPD.

- M. The Research and Evaluation Section (R&E) within the Administration Bureau will be responsible to administer RPD's BWC Program.

### **III. Assignment of BWCs**

- A. The following personnel will be assigned BWCs as available:
  - 1. Police Officers and Sergeants assigned to the Patrol Sections and regularly assigned to patrol duties.
  - 2. Supervisors and Officers assigned to Section Neighborhood Service Centers.
  - 3. Police Officers and Sergeants assigned to the following components of the Special Operations Division:
    - a. Tactical Unit;
    - b. Traffic Enforcement Unit;
    - c. Canine;
    - d. School Resource Officers; and,
    - e. Mounted Unit.
  - 4. Other personnel as directed by the Chief of Police.
- B. Members not assigned a BWC, but wishing to voluntarily use one may request voluntary assignment of a BWC by submitting an IDC to the DCA through the chain-of-command. The DCA will determine whether to issue the BWC in consultation with the member's Commanding Officer, and taking into account the availability of BWCs.
- C. Section Commanding Officers or their designees will notify the BWC Program Manager whenever a member who is assigned a BWC is expected to be absent from full duty for a period exceeding one month, e.g., injury, illness, limited duty, leave of absence, etc. In such cases the BWC Program Manager will determine whether to reassign the BWC to another member or to the pool of spare BWCs.

### **IV. Recording Requirements and Restrictions**

- A. Mandatory BWC Recording. Except as stated otherwise in this Manual, members assigned a BWC **will activate it and record** all activities and contact with persons in the course of performing police duties as soon as it is safe and practical to do so, preferably prior to exiting their police vehicle, or prior to commencing any activity if on foot patrol. For example, this includes recording of:
1. Calls for service and self-initiated interaction with civilians.
  2. Enforcement activity as defined in this Manual.
  3. All in-person encounters involving a Quality of Service Inquiry (QSI) or other complaint regarding police officers or police service. Note: supervisors may but are not required to utilize the BWC's audio recording function to record telephone conversations relating to QSIs.
  4. Pursuit driving as defined by G.O. 530, *Pursuit Driving*.
  5. Foot Pursuits.
  6. Prisoner transports while the member is in the presence of the prisoner.
  7. Prisoner guards while the member is in the actual presence of the prisoner. Note: recording is not required while the member is posted outside an interview room, hospital room, or other location not in the actual presence of the prisoner.
  8. Show-up identification procedures (*see G.O. 413, Eyewitness Identification*).
  9. Searches and seizures.
  10. Traffic stops and enforcement.
  11. Vehicle checkpoints while screening or questioning persons stopped at the checkpoint, (*see G.O. 515, Vehicle Checkpoints*).
  12. Civilian transports.

13. While assigned to an inner perimeter, response team, or arrest team in an emergency situation or critical incident, unless directed otherwise by a supervisor. Other personnel assigned to an emergency situation or critical incident will follow directions from a supervisor or the Incident Commander relative to use of BWCs.
14. Licensed premises checks and enforcement (e.g., ABC premises checks).
15. Upon direction of a supervisor. Supervisors will not direct BWC recording in violation of this Manual.

B. Optional BWC Recording. **Unless a mandatory recording event arises or directed by a supervisor**, members are **not required** to record the following activities with a BWC, but may do so if the member believes it serves a legitimate law enforcement purpose:

1. While driving or a passenger during routine vehicle patrol.
2. Traffic control and traffic points.
3. Walking beats, directed patrol, corner posts, and special attention checks.
4. Completing reports when no longer in presence of civilians.
5. Interviewing cooperative victims, witnesses, and persons with knowledge in a police facility.
6. Conducting general photo queries, photo arrays, and physical line-ups (*see G.O. 413, Eyewitness Identification*).
7. While assigned to a snow detail (*see G.O. 513, Snow and Parking Emergencies*).
8. Completing security surveys (*see G.O. 490, Crime Prevention and Community Involvement*).
9. Conducting a neighborhood canvass.
10. During community or neighborhood meetings; or meetings of government bodies or agencies (e.g., City Council meetings).

- a. Note: members may demonstrate the operation of BWCs at community meetings if requested.
  11. Routine walk-up requests for information or assistance (e.g., giving directions).
  12. During a Special Events detail.
- C. Prohibited BWC Recording. Members will not activate or record with a BWC under the following circumstances, and will deactivate and stop recording if any of these circumstances arise.
1. Members will **not** record with BWCs at any location where video and/or audio recording is **prohibited by law or regulation**.
    - a. This includes any federal, state, or local government facility with a posted notice that video or audio recording is prohibited by law or regulation; or when notified by a person with authority over a federal, state, or local government facility that recording is prohibited by law or regulation.
  2. Members will **not** record with BWCs as follows in accordance with G.O. (Reserved):
    - a. Reserved.
    - b. Members will **not** record with BWCs internal police conversations either openly or surreptitiously, including conversations among members or other RPD employees, conversations between supervisors and subordinates, or conversations relating to personnel matters including but not limited to performance evaluations, selection interviews, discipline, or counseling.
    - c. Members will **not** record with BWCs interviews relating to departmental investigations being conducted by PSS or by any other section performing similar functions, e.g., “farm-out” PSS investigations.
    - d. Members will **not** record with BWCs while in a locker room or bathroom in an RPD facility, or while using any bathroom.

3. Members will **not** record with BWCs personal, non-police conversations with other members or other City employees that do not occur in the course of an official police duty, e.g., conversations during personal breaks.
4. Members will **not** utilize BWCs in lieu of using the designated recording facilities in an approved interview room while recording custodial interviews or interrogations pursuant to G.O. 405, *Video Recording of Interviews and Interrogations*. However, in the event of a malfunction or other unavailability of a designated recording facility, a supervisor may authorize use of a BWC if necessary to comply with the recording requirements in G.O. 405. In such cases the member will note the circumstances in his or her report, including the identity of the approving supervisor.
  - a. In the event a BWC is used to record a custodial interview or interrogation the investigating members will secure the assistance of the R&E to limit access to the BWC recording as needed.
5. Members will **not** record with a BWC while attending internal RPD meetings, other law enforcement meetings, or meetings with prosecutors.
6. Members will **not** record strip searches and body cavity searches (see G.O. 415, *Searches*, § VII).

D. Restricted Locations. Members will **not** record with BWCs in the following locations **unless members anticipate or are engaging in an enforcement activity** as defined by this Manual:

1. Victim support or advocacy agencies (e.g., Bivona, Willow (ABW), etc.);
2. in any courtroom or grand jury room; or,
3. locker rooms, bathrooms, or other locations where persons are expected to be disrobed or in a state of undress.

E. Special Circumstances

1. Members are not required to record meetings or conversations with **compensated confidential informants, street sources, citizen sources, or non-compensated informants** being used in accordance with G.O. 414, *Compensated Confidential Informants*.
2. Members are not required to wear or use BWCs while engaged in **undercover activities, decoy operations, plainclothes surveillances, or other non-uniform and covert police activities**.
3. Members will not record with BWCs **roll calls or operational briefings** unless directed by a supervisor. If BWC recording is authorized the supervisor will clearly inform members that the BWC(s) are recording.
4. Members assigned to the following **Special Teams** will not record with a BWC while engaged in Team operational activities unless authorized by the Chief of Police, a Deputy Chief, Division Commander, or the Team Commander: Special Weapons and Tactics (SWAT); Bomb Squad; SCUBA Squad; and Crisis Negotiation Team.
5. Personnel assigned to **Mobile Field Force and Grenadier activities, including protests, demonstrations, and civil disorder situations** as defined by G.O 601, *All Hazard Plan*, will record with assigned BWCs as directed by a supervisor and/or in accordance with an operational directive.
6. Members assigned to a **Command Post (CP)** will record with a BWC only if specifically directed to do so by the Incident Commander (IC) or higher authority. If BWC recording is authorized, the Incident Commander or designee will clearly inform all persons in the CP that BWC(s) are recording.
7. Members **may** use the BWC to record departmental **training** activities if authorized by a Commander or above, the Administrative Captain, the Commanding Officer of the Professional Development Section (PDS), or the Commanding Officer of a Special Team.

F. Recording Notice Guidelines

1. Members may inform persons they are recording with a BWC unless they encounter physical resistance, flight, or other factors

rendering such notice unsafe or impractical (e.g. “Ma’am/Sir, I am advising you that our interaction is being recorded.”).

2. If an individual asks a member if he or she is being recorded by a BWC the member will answer truthfully unless factors exist that would render such notice unsafe or impractical.
3. Members should inform personnel from other law enforcement agencies and other first responders (e.g., firefighters, emergency medical personnel, etc.) they are recording with a BWC.

#### G. Civilian Requests

1. Requests to Stop Recording. Circumstances may arise in which a civilian requests not to be recorded. For example, a victim, witness, or person with knowledge may be reluctant or refuse to cooperate if being recorded. In such cases, members will record the verbal request, and may exercise their discretion based on the circumstances in deciding to continue or stop recording.

**Note:** *If the member stops recording then he or she must resume recording as soon as it is safe and practical to do so if they anticipate or commence an enforcement activity.*

2. Requests to Record. Members will record an Optional event or activity with a BWC at the request of an individual with whom the member is interacting, provided BWC recording is not prohibited by this Manual. If recording is prohibited, the member will politely explain this to the requesting person.
3. Request to View BWC Recording. Officers are not required to allow civilians to view BWC recordings. Supervisors may allow civilians to view BWC recordings in responding to QSI’s, complaints, or other inquiries.

#### V. **Employee Access to BWC Recordings**

- A. Employees may review and use BWC recordings only for official RPD duties, to include:
  1. Members may view BWC recordings from their assigned BWC if available to assist in accurate report writing;

**Note:** *the purpose of using BWC recordings in writing reports is to maximize the accuracy of the report – not to replace the member’s independent recollection and perception of an event.*

2. conducting criminal investigations;
3. conducting supervisory duties;
4. preparing for testimony relating to their official police duties;
5. managing the BWC recordings, e.g., tagging;
6. training upon approval of the Deputy Chief of the Administration Bureau (DCA); or,
7. performing other official RPD duties as authorized by departmental policy or by competent authority.

**B. Department Investigations of Members**

1. Personnel assigned to PSS will be given direct access to the BWC System and are authorized to access and copy BWC recordings as needed to perform their duties. PSS may also allow civilians to view BWC recordings in handling complaints against Department personnel.
2. Reserved

**VI. Procedures for Use of BWCs**

**A. Members will adhere to the following procedures for use of the BWC unless stated otherwise in this Manual:**

1. Only officers who have received mandatory training as established by the Department and issued BWCs will use them. Members will use only the BWC assigned to them or replacement BWC assigned to them by a supervisor or System Administrator.
2. In operating the BWC, members will follow the procedures outlined in training they have received and Appendix C to this Manual, *BWC User Guide*.

3. Upon reporting for duty, members will retrieve their BWC from the assigned docking station and check its operation to ensure it is charged, working properly, and the clip is not damaged. Members will also check to ensure that the BWC does not contain data from a prior tour of duty. If there is any problem with the BWC the member will notify a supervisor. The supervisor will replace or arrange for a replacement if available in accordance with current procedures.
4. Members will affix the BWC to the outermost garment of uniforms center of their torso in accordance with training.
5. When recording, the member will activate the BWC and record all activities and contact with persons in the course of performing police duties as soon as it is safe and practical to do so, preferably prior to exiting the police vehicle, or prior to commencing any activity if on foot patrol.
6. Members will continue to record with the BWC until the completion of the event or incident in question, or deciding to end recording in accordance with this Manual. Prior to deactivating the BWC, the member will make a recorded verbal statement noting that the recording is ending, unless unsafe or impractical to do so.
7. Upon completion of a recording, members will at the earliest opportunity tag BWC recordings either in the police vehicle or at a police facility in accordance with prescribed procedures. This will include the CR# and the appropriate category in accordance with Appendix A. Officers will tag BWC recordings prior to securing from their tour of duty unless specifically directed otherwise by supervisor.
8. If the BWC malfunctions or other problems arise during the tour of duty the member will notify a supervisor as soon as possible. The supervisor will replace the BWC or arrange for a replacement if a spare is available.
9. During the tour of duty members will monitor the charge level on the BWC, and utilize the car charger as needed to keep the BWC charged and operational.
10. Upon completion of the tour of duty and prior to securing from work members will ensure that BWC recordings are tagged. They

will then insert the BWC into the designated docking station, which will automatically download/transfer BWC recordings into the RPD's secure internal on-site BWC storage system, and charge the BWC unit.

11. In the event a member becomes ill or injured during the tour of duty a supervisor will retrieve the BWC and arrange to return it to the designated docking station. The supervisor will notify a BWC System Administrator and assist in providing information needed by the System Administrator to categorize any untagged recordings.
12. Members will turn in their BWCs prior to or at the end of their tour of duty and will not remove BWCs from the police facility while off duty.

## **VII. Documentation of BWC Recordings**

- A. Members will document the existence of pertinent BWC recordings in various departmental reports and forms in accordance with training.

## **VIII. BWC Procedures for Serious Incidents**

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

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

## **IX. Administration of the BWC Program**

- A. R&E will be responsible to administer RPD's BWC Program. The duties and responsibilities of R&E in performing this function include but are not limited to:
1. liaison with BWC vendor(s) including return, repair, and replacement of BWCs;
  2. liaison and coordination with the City Information Technology Department (IT) on BWC-related matters;
  3. maintaining an accurate and up-to-date inventory of BWCs to include personnel and location assigned;
  4. providing access or copies of BWC recordings to RPD personnel and components as authorized by departmental policy or competent authority;
  5. coordinating response within RPD to subpoenas, court orders, Freedom of Information Law (FOIL) requests and other requests for copies of BWC recordings in accordance with established procedures;
  6. re-categorizing, assigning secondary categories, and assigning security levels to BWC recordings;
  7. redacting sensitive, confidential, privileged, or otherwise protected portions of BWC recordings as needed;
  8. responding as directed to serious incidents or other events to assist with access to and/or copies of BWC recordings;
  9. conducting and coordinating audits to assess compliance with established policies and procedures relating to the BWC Program;
  10. compiling reports and documentation relating to the BWC Program;
  11. coordinating review of stored BWC recordings in accordance with established policies and procedures (*see* § X below);
  12. reviewing BWC program, technology, systems, policies, and procedures and recommend improvements; and,

13. managing the BWC application; and,
  14. other duties related to the BWC Program as assigned.
- B. The Commanding Officer of R&E will designate a sworn supervisory member assigned to R&E to serve as the BWC Program Manager. The BWC Program Manager will be responsible to supervise and coordinate the administrative duties within R&E relating to the BWC Program.
- C. As part of its compilation of RPD's Annual Report (*see* Administrative Order 38, § II.B) R&E will include information regarding the BWC Program for release to the public.

**X. Review, Retention, Copying, and Deletion of BWC Recordings**

- A. BWC recordings will be reviewed and retained in accordance with Appendix A.
- B. Deletion of Recordings "Recorded in Error."
1. In the event a member mistakenly or inadvertently records an activity or event that should not have been recorded under departmental policy (e.g., the member inadvertently activates the BWC during a bathroom break), the member will tag the recording as "Recorded in Error."
  2. The member will forward an email to R&E at the designated email address as soon as possible identifying the recording in question by date, time, location, and CR# (if any), explaining the circumstances, and requesting deletion of the erroneous recording.
  3. The R&E Commanding Officer or designee will:
    - a. determine whether the recording was done in error;
    - b. if recorded in error, and there is no reason to retain the recording (*see* below), delete the video from the BWC System or arrange for a System Administrator to do so;
    - c. if *not* recorded in error (i.e., recorded in accordance with policy), re-categorize the recording to the appropriate category or arrange for a System Administrator to do so;

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

## XI. Internal RPD Copies of BWC Recordings

- A. Copies of BWC recordings will be provided to RPD members or other City employees **only for official RPD or City functions as needed**. RPD members and employees who receive copies of BWC recordings will not disseminate or display them to non-City employees except as authorized by this Manual or approved in writing by the DCA or the Chief of Police
- B. Members may request copies of BWC recordings as follows for operational departmental use (e.g., investigations, crime analysis, etc.). In such cases a System Administrator may provide a copy of the recording. Any questions or concerns whether the copy should be provided will be referred to the R&E Commanding Officer or the BWC Program Manager.

- C. Members who want a copy of a BWC recording for non-operational departmental use (e.g., training), will direct an IDC to the DCA through the chain-of-command identifying the recording and explaining the intended use of the copy. If the DCA determines that there is a valid non-operational use for the BWC recording, the DCA will authorize a System Administrator to provide a copy.
- D. Reserved

## **XII. Disclosure of BWC Recordings in Legal Proceedings**

- A. Criminal Cases Prosecuted by the Monroe County District Attorney's Office (MCDA).
  - 1. R&E will coordinate with City IT to provide direct access to MCDA to obtain BWC recordings stored in RPD's BWC System needed for criminal prosecutions undertaken by MCDA.
  - 2. MCDA will directly provide defendants with copies of BWC recordings in criminal cases as it deems necessary.
  - 3. MCDA will be responsible for any required redactions in BWC recordings it provides to defendants.
  - 4. In the event MCDA needs assistance in obtaining BWC recordings needed for criminal prosecutions, R&E personnel will assist as needed to ensure necessary BWC recordings are obtained by MCDA.
- B. Other Criminal Cases.
  - 1. Requests by other prosecuting offices (e.g., U.S. Attorney's Office, New York State Attorney General's Office, etc.), will be referred to R&E.
  - 2. R&E will identify BWC recordings that may be responsive to the request, and provide copies of the requested recordings to the prosecutor.
  - 3. R&E will be responsible for any necessary redactions, as requested by the prosecutor.
- C. Defense Subpoenas or Demands in Criminal Cases.

1. Defense subpoenas or demands for BWC recordings will be referred to R&E.
2. R&E will consult with the City Law Department and the appropriate prosecuting office.
3. R&E will identify BWC recordings that may be responsive to the defense subpoena or demand.
4. R&E will provide copies as advised by the City Law Department and/or the prosecuting office.
5. Prior to providing any copies, R&E will review the BWC recording and determine if any redactions may be required. R&E will consult with the City Law Department and the appropriate prosecuting office and follow legal guidance regarding any required redactions.
6. R&E will provide the appropriate prosecuting office with copies of any BWC recording provided to the defense.

**B. Civil and Administrative (Non-Criminal) Proceedings**

1. Requests, subpoenas, court orders, or other demands for BWC recordings in civil, administrative, or other non-criminal proceedings will be referred to R&E.
2. R&E will consult with the City Law Department in such cases.
3. R&E will identify BWC recordings that may be responsive to the request.
4. R&E will provide copies as advised by the City Law Department.
5. Prior to providing any copies, R&E will review the BWC recording and determine if any redactions may be required. R&E will consult with the City Law Department and follow legal guidance regarding any required redactions.

**XIII. Freedom of Information Law (FOIL) Requests**

- A. BWC recordings may be subject to requests for release under New York's Freedom of Information Law (FOIL) (Public Officers Law, Article 6; §§ 84 -

90). FOIL is based upon a presumption of access that requires agencies to make all records available, except to the extent that records or portions thereof fall within one or more grounds for denial appearing in the statute.

B. FOIL does contain exemptions intended to protect safety and privacy, and to protect the integrity of law enforcement operations. Thus, RPD may withhold those portions of the records that would interfere with an investigation or judicial proceedings. Denial of FOIL requests, or redactions, are permitted, for example, in the following circumstances:

1. are specifically exempted from disclosure by state or federal statute;
2. if disclosed would constitute an unwarranted invasion of personal privacy;
3. are compiled for law enforcement purposes and which, if disclosed, would:
  - a. interfere with law enforcement investigations or judicial proceedings;
  - b. deprive a person of a right to a fair trial or impartial adjudication;
  - c. identify a confidential source or disclose confidential information relating to a criminal investigation; or
  - d. reveal criminal investigative techniques or procedures, except routine techniques and procedures;
4. if disclosed could endanger the life or safety of any person.

**Note:** *These are examples of potential FOIL disclosure exemptions that may apply to BWC recordings – it is not a complete list of disclosure exemptions under FOIL. Personnel should consult the City Law Department on FOIL questions and issues.*

C. RPD bears the burden to demonstrate that the requested material qualifies for exemption from FOIL disclosure. In doing so, RPD may not rely on general categories of material, but must cite a specific and particularized justification to establish a valid exemption.

- D. The following procedures will apply to FOIL request for BWC recordings:
1. FOIL requests for BWC recordings will be referred to R&E.
  2. R&E will coordinate a response with the Communications Department and the City Law Department.
  3. R&E will identify BWC recordings that may be responsive to the FOIL request.
  4. The City Law Department will provide guidance on release or denial of BWC recordings.
  5. If the BWC recording(s) requested under FOIL are involved in a criminal investigation or prosecution, R&E will coordinate communication among the investigating officers, the prosecutor, and the City Law Department as appropriate to identify any possible exemptions to FOIL disclosure.
    - a. If the City Law Department recommends release over the objection of the investigating officers and/or the prosecutor, the matter will be referred to the Chief of Police.
    - b. The Chief will coordinate further review as required to resolve the matter, including consultation with the Corporation Counsel, the Deputy Chief/Operations Bureau, the DCA, and the chief prosecuting officer or designee.
    - c. Based upon the consultation and review the Chief will make a final determination.
  6. R&E will do any required redactions.
  7. R&E will work with the Communications Department and the City Law Department to track and document the cost of compliance with FOIL requests for possible reimbursement claims under the statute.

#### **XIV. Other Public Access**

- A. Media Requests for BWC Recordings

1. Media requests for BWC recordings, including FOIL requests from the media, will be referred to the Public Information Officer (PIO).
2. The PIO will coordinate review of the request and respond in accordance with standard departmental policies and procedures as applicable (*see* G.O. 360, News Media).
3. If the BWC recording involves a criminal incident the PIO will coordinate and consult with the investigating officers and prosecutor prior to release. If the BWC recording relates to a civil claim involving the City of Rochester, the PIO will consult with the City Law Department.
4. All releases of BWC recordings to the media must be approved by the Chief or a Deputy Chief.
5. R&E will assist as needed to locate BWC recordings requested by the media and provide copies for review.
6. BWC recording released to the media will be redacted by R&E as needed to protect safety and privacy, and the integrity of law enforcement operations, criminal investigations, and prosecutions; and to comply with applicable contractual requirements.

B. RPD Release

1. Circumstances may arise in which RPD will consider releasing BWC recordings to the public through news conferences, social media, community meetings, and public displays, or other public release.
2. The PIO will coordinate the review of BWC recordings for possible release by RPD.
3. The same procedures and authorizations as required for consideration of media release and redaction of BWC recordings will be followed.

Appendix A: *BWC Categories and Retention Schedule*

Appendix B: *Operation of the BWC*

Appendix C: *BWC User Guide*

**Appendix A**  
**Primary Categories—System Users**

Category	Retention Period	Criminal Statute of Limitations		NYS MU-1 Requirement		MCDA Access
<b>Missing Person</b>	Permanent <i>*Will assess for process to re-categorize cases involving located missing persons</i>	N/A		Permanent until located		No
<b>Felony Offenses/Arrests</b>	25 Years	5 years Unless Otherwise Noted		25 Years after case is closed		Yes
<b>Motor Vehicle Accidents</b>	21 Years	N/A		6 years OR 3 years after youngest person involved turns 18, whichever is longer		Yes
<b>SRRs/Use of Force</b>	10 Years	Varies by offense		Varies by type of incident		Yes
<b>Non-Felony Offenses/Arrests (Misdemeanors, Violations, MHA, Municipal Code)</b>	6 years	Misdemeanor— 2 years	Violation— 1 year	Misdemeanor— 5 years after case is closed	Violation— 1 year after case is closed	Yes
<b>Street/Pedestrian Stops, Searches, or Seizures—Without Arrest (with or without FIF)</b>	5 Years	N/A		5 years if investigation revealed no crime		No
<b>Vehicle Stops, Searches, or Seizures—Without Arrest (with or without FIF, includes V&amp;T)</b>	5 Years	N/A		<ul style="list-style-type: none"> <li>• 1 year if V&amp;T enforcement</li> <li>• 6 months if “routine traffic stop”</li> <li>• 5 years if investigation revealed no crime</li> </ul>		No
<b>Domestic Incident—DIR/No Arrest (NYCPL 140.10-5)</b>	4 Years	N/A		4 Years or as long as rest of case investigation report, whichever is longer		Yes
<b>Recorded in Error</b>	6 Months— Immediate Review	N/A		N/A		No
<b>General Storage</b>	6 Months—No Review	N/A		N/A		No

**Appendix A**  
**Secondary Categories—System Administrator Only**

Category	Retention Period On BWC System	Criminal Statute of Limitations	NYS MU-1 Requirement	Responsibility to Notify R&E
Police Use of Deadly Force	Permanent	Depends on Circumstances	Depends on Circumstances	DCO or designee
Death or Serious Physical Injury Resulting from or Involving Police Action (officer or civilian)	Permanent	Depends on Circumstances	Depends on Circumstances	DCO or designee
Death or Serious Physical Injury While in Police Custody	Permanent	Depends on Circumstances	Depends on Circumstances	DCO or designee
Police-Involved MVA Resulting in Death or Serious Physical Injury	Permanent	Depends on Circumstances	Depends on Circumstances	DCO or designee
Extended Statute of Limitations Offenses & Records Retention (MU-1 Requirements)—Monthly LERMS Report to System Administrator <ul style="list-style-type: none"> <li>• A Felonies</li> <li>• Article 130 Offenses</li> <li>• Incest—NYPL Sec. 255</li> <li>• Sexual Performance by Child—NYPL Art. 26)</li> <li>• Terrorism Offenses—NYPL Art. 490</li> <li>• Government Corruption Offenses—NYPL Art. 496</li> <li>• Arson—NYPL Art. 150</li> </ul>	Permanent	Varies by Offense	Depends on Circumstances	Monthly LERMS Report
Stolen/Missing Firearm	Permanent <i>*Will assess for process to re-categorize cases involving recovered firearms</i>	Depends on circumstances	Permanent until located	Monthly LERMS Report
Suicides	Permanent	N/A	Permanent	DCO or designee
Prosecutor Request—Permanent	Permanent	N/A	N/A	Prosecutor
Law Department Request—Permanent	Permanent	N/A	N/A	Law Department
Chief Directive—Permanent	Permanent	N/A	N/A	Chief

**Appendix A**  
**Secondary Categories—System Administrator Only**

<b>PSS Complaint—Upon Notice from PSS</b>	10 Years  <i>Note: PSS will burn copy to retain with PSS file.</i>	N/A	<ul style="list-style-type: none"> <li>• Three Years after final decision rendered</li> <li>• Alleged Prisoner Abuse/Injury: 6 years or once the individual attains 21 yoa, whichever is longer</li> </ul>	PSS
<b>Officer Injury</b>	18 Years  <i>Note: DCA/designee will burn copy to retain with 8A-6 file.</i>	N/A unless injured in assault on officer	18 Years	DCA or Designee
<b>Civil Disorder/Mobile Field Force Event</b>	25 Years	N/A	N/A	Chief or DCO
<b>Civil Claim</b>	25 Years	N/A	6 years OR until any involved minor reaches 21 yoa, whichever is longer	Law Department
<b>Chief/Deputy Chief Directive—Long Term</b>	10 Years	N/A	N/A	Chief or Deputy Chief
<b>Law Department Request—Long Term</b>	10 Years	N/A	N/A	Law Department
<b>Prosecutor Request—Long Term</b>	10 Years	N/A	N/A	Prosecutor
<b>Subpoenas/Preservation Requests</b>	2 Years	N/A	2 years	Subpoenas & Requests for BWC forwarded to R&E
<b>FOIL Requests</b>	2 Years	N/A	N/A	Requests for BWC forwarded to R&E
<b>Member Request (Approval by R&amp;E CO)</b>	5 Years	N/A	N/A	Member

## Appendix C RPD BWC User Guide

*This Guide is a summary of BWC User responsibilities and duties.  
Refer to the BWC Manual for more information.*

- **At the beginning of your tour of duty.**
  - ✓ Check to make sure the BWC is working properly.
  - ✓ Report any problems to your supervisor.
  - ✓ Attach the BWC to the outermost garment of your uniform in center of torso in accordance with training.
  
- **Mandatory Recording – Must Record.**
  - ✓ Activate and record *all activities and contact with persons while performing police duties as soon as it is safe and practical to do so unless an exception applies* (see below).
  - ✓ Includes calls for service and self-initiated police activities.
  - ✓ Activate prior to exiting police vehicle, or prior to commencing any activity or conversation if on foot patrol.
  - ✓ Record when directed by a supervisor.
  - ✓ *Record all arrests, detentions, and any use of force – no exceptions apply.*
  - ✓ See BWC Manual for more information.
  
- **Optional Recording – Not required to record UNLESS a mandatory recording event arises.**
  - ✓ While on routine vehicle or foot patrol.
  - ✓ Walking beats, directed foot patrol, corner posts, special attention checks.
  - ✓ Directing traffic, traffic posts.
  - ✓ Completing reports in car or office when no longer in presence of civilians.
  - ✓ Interviewing cooperative victim, witnesses, and PKs in a police facility.
  - ✓ Conducting general photo queries, photo arrays, and physical line-ups.
  - ✓ Snow Details.
  - ✓ Security Surveys.
  - ✓ Conducting neighborhood canvass.
  - ✓ While on a Special Events Detail.
  - ✓ Routine walk-up requests (e.g., requests for directions).
  - ✓ Community, neighborhood, or government meetings.
  - ✓ Meetings or conversations with informants or street sources.
  - ✓ Undercover, decoy, plainclothes surveillances, or other covert activity.
  - ✓ See BWC Manual for more information.

- **Prohibited Recording – Do not activate or record.**
  - ✓ Government building where recording prohibited by law.
  - ✓ Reserved.
  - ✓ Internal or private police conversations.
  - ✓ Internal RPD meetings, roll calls, briefings.
  - ✓ Interviews relating to PSS or farm-out investigations.
  - ✓ Locker rooms and bathrooms in police facilities.
  - ✓ While using any bathrooms.
  - ✓ Strip searches.
  
- **Restricted Locations – Do not record UNLESS you anticipate or conduct an arrest, detention, or use of force.**
  - ✓ Victim support or advocacy agencies (e.g., Bivona, Willow).
  - ✓ Court room or grand jury room.
  - ✓ Lockers, bathrooms, or other locations where persons are expected to be disrobed.
  
- **Civilian Requests to Stop Recording**
  - ✓ You may stop recording record UNLESS you anticipate or conduct an arrest, detention, or use of force.
  - ✓ Ensure the civilian's request to stop recording is recorded prior to deactivating the BWC.
  
- **Civilian Requests to Record.**
  - ✓ If a civilian requests you start recording you will activate the BWC and record UNLESS recording is prohibited by RPD policy.
  
- **Requests by Civilians to View Recordings.**
  - ✓ **Officers** are not required to allow civilians to view recordings.
  - ✓ **Supervisors** may show recordings to civilians in responding to OSIs, complaints, or other inquiries.
  
- **BWC User Access to Recordings.**
  - ✓ You may view recordings from your assigned BWC to assist in writing accurate reports.
  - ✓ *The purpose of using BWC recordings in writing reports is to maximize the accuracy of the report - not to replace your independent recollection and perception of an event.*
  - ✓ See BWC Manual for more information.

➤ **Tag the Recording – In accordance with training.**

- ✓ CR#
- ✓ Category – use first applicable category on list below:
  - Missing Person
  - Felony Offense or Arrest
  - Motor Vehicle Accident
  - SRR/Use of Force
  - Non-Felony Offense/ Arrest (e.g., misdemeanor, violation municipal code violation)
  - Street/Pedestrian Stop, Searches, Seizures – No Arrest (with or without FIF)
  - Vehicle Stops, Searches, or Seizures – No Arrest (includes V&T, FIF)
  - Domestic Incident (DIR) – No Arrest
  - Recorded in Error (refer to training)
  - General Storage
- ✓ Type the address of the event.
- ✓ Tag at earliest opportunity – **must tag prior to securing from tour of duty** unless specifically directed otherwise by a supervisor.

➤ **Document BWC Recording in Reports/Forms.**

- ✓ Document BWC recording in applicable RPD reports and forms.
- ✓ Document in appropriate box in report/form if provided.
- ✓ If no box provided, note in narrative.

➤ **During Tour of Duty.**

- ✓ Monitor battery charge level.
  - Utilize car charger as needed.
  - Charge while in office, e.g., during breaks, while completing reports.
- ✓ Tag BWC recordings.
- ✓ Report any malfunction or other BWC issue to supervisor.

➤ **End of Tour Duty.**

- ✓ Ensure all BWC recordings are tagged.
- ✓ Insert BWC in designated docking station.