

ROCHESTER POLICE DEPARTMENT  
*Body-Worn Camera Manual*

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 has 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 Activities: For purposes of this Manual, "*enforcement activities*" are: (1) *arrests and prisoner transports* (including issuance of appearance tickets and mental hygiene arrests); (2) *pursuits* (pursuit driving as defined by G.O. 530, *Pursuit Driving*, and foot pursuits); (3) *detentions/stops of persons and vehicles* (includes street stops, traffic stops, persons on bicycles, and field interviews as defined by G.O. 570, *Field Interview Form*); and, (4) *force* (use of force or deadly physical force as

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defined by G.O. 335, *Subject Resistance Report* and NY Penal Law § 10.00-11).

- J. Mandatory Recording: Any event or activity that requires BWC recording without exception, i.e., upon direction of a supervisor, and “enforcement activities” as defined in this Manual.
- K. Metadata: Data entered into or generated by the BWC System that provides context or additional information about BWC recordings.
- L. Optional Recording: Any event or activity that does not require BWC recording but recording is permitted.
- M. Standard Recording: Any event or activity that requires BWC recording unless a specific exception exists.
- N. Prohibited Recording: An event or incident for which BWC recording is prohibited.
- O. Serious Incident: Any incident or event which involves 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 Visiologix DME software and issued equipment in accordance with retention categories established by RPD, and with the assigned CR#.

## **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.

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- 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:

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1. Police Officers, Sergeants, and Lieutenants assigned to the Patrol Sections and regularly assigned to patrol duties.
  2. Police Officers, Sergeants, and Lieutenants assigned to the following components of the Special Operations Division:
    - a. Tactical Unit;
    - b. Traffic Enforcement Unit;
    - c. Canine Unit; and,
    - d. School Resource Officers;
  3. 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. The BWC Program Manager will determine if a member who is assigned a BWC and is expected to be absent from full duty for a period exceeding one month, e.g., injury, illness, limited duty, military leave, leave of absence etc., should be collected and returned to the pool of spare BWC's.

#### **IV. RECORDING REQUIREMENTS AND RESTRICTIONS**

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

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

1. “Enforcement activities” are:

- a. *arrests and prisoner transports* (including issuance of appearance tickets and mental hygiene arrests);
- b. *pursuits* (pursuit driving as defined by G.O. 530, *Pursuit Driving*, and foot pursuits);
  - i. Members will activate the BWC and record any involvement or assistance with a vehicle or foot pursuit, including direct involvement in the pursuit, deploying a tire deflation device, blocking traffic or taking a traffic point, paralleling, following from a distance, responding to the general area to provide assistance if needed, and responding to and while present at the apprehension/arrest site.
- c. *detentions/stops of persons and vehicles* (includes street stops, traffic stops, persons on bicycles, and field interviews as defined by G.O. 570, *Field Interview Form*);
- d. *force* (use of force or deadly physical force as defined by G.O. 335, *Subject Resistance Report* and NY Penal Law § 10.00-11).

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

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

1. While driving or a passenger during routine vehicle patrol.

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2. Traffic control and traffic points.
  3. Walking beats, directed patrol, corner posts, and special attention checks.
  4. Completing reports when no longer in the presence of civilians (e.g., in a police car or in a police facility).
  5. Interviewing cooperative victims, witnesses, and persons with knowledge in a private residence or a police facility.
  6. Conducting general photo queries, photo arrays, and physical line-ups (see G.O. 413, *Eyewitness Identification*).
  7. While conducting parking enforcement if no civilians are present.
  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. Civilian transports.
- E. Exceptions to Standard and Optional Recording Requirements.
1. Sensitive 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:
    - a. Victim support or advocacy agencies (e.g., Bivona, Willow/ABW, etc.);
    - b. In any courtroom or grand jury room;

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- c. Locker rooms, bathrooms, or other locations where persons are expected to be disrobed or in a state of undress.
2. Civilian Requests to Stop Recording. Requests by civilians to stop recording with a BWC will be handled as follows:
- a. If the situation involves an enforcement activity (mandatory recording event), the member *will not grant the request and will continue recording*.
  - b. If the situation involves a Standard or Optional Recording event, members will record the verbal request to stop recording, and may exercise their discretion based on the circumstances in deciding to continue or stop recording.
  - c. If the requesting person is a prisoner who is offering information about criminal activity but will not do so if recorded, the member may briefly stop recording while the information is provided, and must resume recording once the information is given.

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

F. Prohibited BWC Recording. 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 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.

**NOTE:** This refers only to conversations in which all parties are on duty and acting in a law enforcement capacity. Members interacting with an off-duty police or law enforcement officer who is not acting in a law enforcement capacity (e.g., complainant, victim, witness, person with

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knowledge, involved party in call for service, suspect, arrestee, etc.) will follow all BWC recording requirements.

2. 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.
  3. Members will **not** record with BWCs while in a locker room or bathroom in a RPD facility, or while using any bathroom.
  4. 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.
  5. 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 R&E to limit access to the BWC recording as needed.
  6. Members will **not** record with a BWC while attending internal RPD meetings, other law enforcement meetings, or meetings with prosecutors.
  7. Members will **not** record strip searches and body cavity searches (see G.O. 415, *Searches*, § VII).
- G. Civilian Requests to Record. If a civilian requests that their interaction is recorded, members will do so unless it is prohibited under this policy.
- H. Special Circumstances



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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**.

**Note:** Members in uniform who are assigned a BWC and are participating in or assisting undercover activities, decoy operations, plainclothes surveillances, or other non-uniform and covert police activities *must record activity and follow all policies and procedures as set forth in this Manual and other departmental directives*.

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 as a School Resource Officer (SRO) to a Rochester City School are not required to record internal meetings with administrators, assemblies or teacher meetings taking place on school grounds unless a mandatory recording event takes place.
5. Members responding or assigned to a **Critical Incident** will follow the BWC recording requirements in this Manual to the extent feasible under the circumstances, or follow supervisory directives regarding use of BWCs.
6. 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.
7. Members assigned to the Crisis Negotiation Team(CNT) that are assigned a BWC, will follow BWC policy during normal patrol functions. While engaged in Team negotiation activities, CNT members will not record with a BWC unless directed otherwise by

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the Team leader, Commander, Deputy Chief or Chief of Police. Unless directed otherwise by the Team Leader, Commander, Deputy Chief or Chief of Police, Team Members will direct other officers participating in the negotiation to cease recording during active negotiations. Upon the incident being resolved, standard RPD BWC policy will be followed.

8. Members assigned to the **Mobile Field Force (MFF) or Grenadier Team** that are assigned a BWC, will record team activities according to orders given by the Team Leader, Commander, Deputy Chief or Chief of Police, as set forth below.
  - a. **MFF and Grenadier** Team leaders will issue a command to activate and record with BWCs prior to issuing a command to actively engage with persons or groups, make arrests, or take other action, and ensure that officers are recording with their issued BWC while actively engaged in crowd control operations. This includes any line formation that is used as a regular part of **MFF** operations to effectively disperse or control protests, demonstrations and civil disorder situations as defined by G.O 601, All Hazard Plan.
  - b. When Mobile Field Force (MFF) members are operating as a Rapid Response Team (RRT), the BWC will be used according to standard policy and operating procedures.
9. Personnel assigned to crowd control situations, **including protests, demonstrations, and civil disorder situations** that do not involve the MFF or Grenadier Team will record with assigned BWCs unless directed otherwise by a Police Commander, Deputy Chief, or the Chief of Police.
10. 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.
11. Members may use the BWC to record departmental **training** activities if authorized by a Commander or above, the

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Commanding Officer of the Professional Development Section (PDS), or the Commanding Officer of a Special Team.

12. Members assigned a BWC will activate the BWC and record during raids, search warrant executions, and arrest warrant executions, and continue to record in accordance with standard policy (e.g., prisoner guard and transports).
  - a. Members will check their assigned BWCs prior to the operation to ensure they are working properly; if not, the member will replace the BWC before the operation commences.
  - b. Operational plans will note which participating members are assigned BWCs.
  - c. During pre-operation briefings, supervisors will remind members with assigned BWCs to activate and record during the operation.
  
13. Members assigned a BWC will record while guarding prisoners, e.g., at a hospital, the PSB, or other police facility, subject to the following guidelines:
  - a. Members will record whenever in the direct presence of the prisoner, and during all conversations or interactions with the prisoner.
  - b. Members will adhere to the following procedures for long-term prisoner guard details (i.e., in excess of one (1) hour) at a hospital or medical facility:
    - i. Members are not required to record when not in the direct presence of the prisoner, and not otherwise conversing with or interacting with the prisoner (e.g., prisoner is sleeping in the hospital, etc.).
    - ii. Prior to having direct contact or interaction with the prisoner the member will activate the BWC and record the contact or interaction.
    - iii. Members will monitor the charge level and remaining storage capacity of the assigned BWC during the

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prisoner guard detail. If the charge becomes low, the BWC is nearing its storage capacity, or any other problems arise with the proper operation of the BWC, the member will notify a supervisor, who will make appropriate arrangements (e.g., arrange a switch to another BWC) as soon as possible to ensure the member has a functioning BWC for the duration of the prisoner guard assignment.

- c. In all situations, if the member stops recording during a prisoner guard assignment in accordance with this policy, the member *must resume recording as soon as possible if he or she anticipates or commences an enforcement activity.*

I. Recording Notice Guidelines

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

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.*

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2. Conducting criminal investigations;
3. Conducting supervisory duties;
4. Preparing for testimony relating to their official police duties;
5. Managing the BWC recordings, e.g., tagging;
6. Training upon approval of a Commander or above, , the Commanding Officer of the Professional Development Section (PDS), or the Commanding Officer of a Special Team;
7. Assist with training and evaluation in the department's Field Training and Evaluation Program; and,
8. 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.

**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 have been issued BWCs will use them. Members will use only the BWC assigned to them or BWC assigned to them by a supervisor or System Administrator.
  2. In operating the BWC, members will follow the procedures outlined in this Manual and training they have received.
  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

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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. See Section VI.B below.

4. Members will affix the BWC to the outermost garment of uniforms, in the center of their torso in accordance with training.
5. When recording, the member will activate the BWC and record all activities, and all contact with persons in the course of performing police duties as soon as it is safe and practical to do so, preferably upon being dispatched and prior to exiting their police vehicle, or prior to commencing any activity if on foot patrol.
  - a. **Note:** when dispatched to a call or commencing any self-initiated police activity members will activate the BWC and record until the member determines an exception exists, or elects to stop recording after confirming an optional event.
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. 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.
8. Upon completion of a recording, members will at the earliest opportunity tag BWC recordings in the police vehicle, at a police facility, in accordance with prescribed procedures. This will include the CR# and the appropriate category in accordance with Appendix A, *BWC Categories and Retention Schedule*.
9. Officers will tag BWC recordings prior to securing from their tour of duty unless specifically directed otherwise by supervisor.
10. If the BWC malfunctions or other problems arise during the tour of duty the member will notify a supervisor as soon as possible. The

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supervisor will replace the BWC or arrange for a replacement if a spare is available. See Section VII.B below for additional steps to be taken for malfunctions.

11. 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.
12. 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.
13. 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.
14. 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.
  - a. **Exception for Canine Officers.** Canine Officers who are assigned "take home vehicles" are not required to turn in their assigned BWCs, and are authorized to retain possession of them while off duty. However, all recordings will be tagged and transferred into RPD's secure internal on-site BWC storage system prior to securing from work. Canine Officers who retain possession of BWCs while off duty are responsible to ensure they are stored safely and securely; are fully charged and ready for use when reporting for duty; and are protected from theft, damage, and unauthorized use.
  - b. **Exception for Traffic Enforcement (TEU) Officers.** Traffic Enforcement Officers (TEU) who are assigned "take home motorcycles" are not required to turn in their assigned BWC's, and are authorized to retain possession of them while off duty. This is only authorized when taking an assigned motorcycle back and forth for work. However, all recordings

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will be tagged and transferred into RPD's secure internal on-site BWC storage system prior to securing from work. TEU Officers who retain possession of BWCs while off duty are responsible to ensure they are stored safely and securely; are fully charged and ready for use when reporting for duty; and are protected from theft, damage, and unauthorized use.

- B. Members will adhere to the following procedures for BWC replacement:
1. Whenever a member determines an assigned BWC is malfunctioning or inoperable, or if a BWC is lost, damaged, or stolen, the member will notify a supervisor. The supervisor will ensure that the member obtains a replacement BWC. The BWC will be replaced with an operable BWC immediately unless due to urgent circumstances the member cannot be immediately released to obtain a replacement. In such cases, the supervisor is responsible to ensure the member obtains a replacement BWC as soon as possible.
    - a. Members will follow standard policies and procedures for department-issued equipment that is lost, damaged, or stolen if applicable.
  2. During normal business hours (Monday–Friday, 0800 to 1630) members will contact the BWC Program Manager or other BWC personnel assigned to R&E to arrange for a replacement.
  3. The Technical Services Section/Headquarters Desk (TSS) will maintain a supply of charged BWCs that will be used to replace BWCs as needed. During non-business hours or if R&E personnel are not immediately available during business hours, members will report to TSS to obtain a replacement. TSS personnel will:
    - a. Assign the replacement BWC to the member in the BWC System and issue it to the member;
    - b. Secure the inoperable BWC at the designated location in TSS;
    - c. Document the replacement on a designated form, including date, time, member/IBM#, serial number of the BWC turned in, serial number of the replacement BWC, and description of the problem; and,
    - d. Notify the BWC Program Manager if the supply of BWCs



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available for replacement fall below five (5) operable BWCs.

4. R&E personnel will collect turned-in BWCs every working day. If necessary, they will transfer any recordings on the BWC into RPD's secure internal on-site BWC storage system, and notify the member to tag the recordings.

## **VII. DOCUMENTATION OF BWC RECORDINGS AND MALFUNCTIONS**

- A. Members will document the existence of pertinent BWC recordings in various departmental reports and forms in accordance with training.
  1. Some departmental reports and forms include a specific field members will utilize to note the existence of BWC recordings. This includes the Incident Report, Investigative Action Report, Field Interview Form (FIF), Grand Jury Referral Form, Subject Resistance Report (SRR), and 8A-6 Claim Form.
  2. In all departmental or other required reports and forms that do not contain a specific field for BWC recordings, e.g., Domestic Incident Reports (DIRs), Report of Motor Vehicle Accident (MV-104A), Report of Suspected Child Abuse and Maltreatment (DSS 2221A), etc. members will note the existence of BWC recordings in the narrative.
  3. 710.30 Notice. Whenever completing a 710.30 notice (NYCPL 710.30-1 & 2) to note the existence of a defendant statement or an eyewitness identification procedure, members will note the existence of any BWC recording that contains the statement or eyewitness identification procedure. See G.O. 411, *Interrogation Procedures*; G.O. 413, *Eyewitness Identification*.
- B. In the event a member cannot access or retrieve a recording due to a camera or system malfunction (e.g., "corrupt file" or other malfunction) the following steps will be taken:
  1. The member will notify an on-duty supervisor of the malfunction, and document the circumstances in the appropriate report, if any (e.g., Incident Report, IAR, etc.).
  2. During normal business hours the member or supervisor will

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notify a BWC System Administrator of the malfunction and seek assistance to resolve the problem.

3. If there is not an urgent need to access or retrieve the recording during non-business hours, the member or supervisor will forward an email to R&E at [bwc.support@cityofrochester.gov](mailto:bwc.support@cityofrochester.gov), describing the problem, and noting the name of the member assigned the BWC; the serial number of the BWC; the date, time, location, and CR# of the involved recording(s); and the nature of the incident(s) recorded.
4. If there is an urgent need to access or retrieve the recording during non-business hours, the supervisor will notify the on-duty SDO. The SDO will consult the BWC Program Manager and determine whether to immediately call in the Manager or other System Administrator.
5. Once notified of a system malfunction, a System Administrator will take steps to retrieve the recording(s) in question, working with City IT and/or the BWC system vendor as needed. If the recording is potential evidence, the System Administrator will complete an IAR under the original event CR# documenting the malfunction, the efforts made to retrieve the recording, and the results of those efforts.

## **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:

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- i. Identity of the member(s) from whom a BWC was taken;
  - ii. Serial number(s) of the BWC(s) taken;
  - iii. Date, time, and location the supervisor took possession of the BWC(s);
  - iv. Identity of the Incident Commander or ranking Command Officer who directs the supervisor to turn over the BWCs; and,
  - v. 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 this Manual and 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.

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**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 an annual audit to assess compliance with established policies and procedures relating to the BWC Program, and coordinate additional audits by designated RPD personnel;
  10. Compiling reports and documentation relating to the BWC Program;
  11. Coordinating review of stored BWC recordings in accordance with established policies and procedures (*see* § X below);

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12. Reviewing BWC program, technology, systems, policies, and procedures and recommend improvements;
  13. Managing the BWC application;
  14. Liaison and communication with individuals and organizations in the community on the BWC program;
  15. Other duties related to the BWC Program as assigned.
- 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, *BWC Categories and Retention Schedule*.
- 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." The video management software will then delete this recording according to a pre-determined schedule.
  2. Members requesting immediate deletion of the erroneous recording will forward an email to R&E at [bwc.support@cityofrochester.gov](mailto:bwc.support@cityofrochester.gov) as soon as possible. The member should identify the recording in question by date, time, location, and CR# (if any), and explain the circumstances for the immediate deletion.
  3. The R&E Commanding Officer or designee will:
    - a. Determine whether the recording was done in error;

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- 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

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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 make or request copies of BWC recordings as follows for operational departmental use (e.g., investigations, crime analysis, etc.). If the member is not authorized to make a copy of the recording in question, a supervisor or a System Administrator may provide a copy of the recording. Any questions or concerns whether the copy should be provided will be referred to the 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.

## **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

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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.

D. 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.



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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.

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**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 as needed.
  - 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.

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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 recordings 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.

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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: *BWC Recording Requirements*

**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		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>Quality Service Inquiry (QSI)</b>	2 Years	N/A		N/A		No
<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
<b>Police Use of Deadly Force</b>	Permanent	Depends on Circumstances	Depends on Circumstances	DCO or designee
<b>Death or Serious Physical Injury Resulting from or Involving Police Action (officer or civilian)</b>	Permanent	Depends on Circumstances	Depends on Circumstances	DCO or designee
<b>Death or Serious Physical Injury While in Police Custody</b>	Permanent	Depends on Circumstances	Depends on Circumstances	DCO or designee
<b>Police-Involved MVA Resulting in Death or Serious Physical Injury</b>	Permanent	Depends on Circumstances	Depends on Circumstances	DCO or designee
<b>Extended Statute of Limitations Offenses &amp; Records Retention (MU-1 Requirements)—Monthly LERMS Report to System Administrator</b> <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
<b>Stolen/Missing Firearm</b>	Permanent <i>*Will assess for process to re-categorize cases involving recovered firearms</i>	Depends on circumstances	Permanent until located	Monthly LERMS Report
<b>Suicides</b>	Permanent	N/A	Permanent	DCO or designee
<b>Prosecutor Request—Permanent</b>	Permanent	N/A	N/A	Prosecutor
<b>Law Department Request—Permanent</b>	Permanent	N/A	N/A	Law Department
<b>Chief Directive—Permanent</b>	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 B—BWC Recording Requirements

*\*Refer to BWC Manual for More Details*

Category	Includes	Exceptions to Recording Requirements
<b>MANDATORY—Always record.</b>	<ul style="list-style-type: none"> <li>• Arrests &amp; Prisoner Transports</li> <li>• Vehicle &amp; Foot Pursuits</li> <li>• Detentions/Stops of Persons &amp; Vehicles</li> <li>• Any use of force</li> <li>• Supervisory Directive</li> </ul>	<b>N/A—No exceptions; must record.</b>
<b>STANDARD—Record Unless an Exception Exists</b>	<ul style="list-style-type: none"> <li>• All activities and contact with persons in the course of performing police duties. This includes all calls for service and self-initiated police activity unless listed as Optional below.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Sensitive Locations</b> <ul style="list-style-type: none"> <li>○ Victim support/advocacy agencies</li> <li>○ Courtrooms &amp; Grand Jury Rooms</li> <li>○ Locker rooms, bathrooms, etc.</li> </ul> </li> <li>• <b>Civilian Request to Stop Recording</b> <ul style="list-style-type: none"> <li>○ Record Request to Stop</li> <li>○ Officer's Discretion</li> </ul> </li> <li>• <b>If not recording due to sensitive location or civilian request, resume recording as soon as possible if you anticipate or commence an enforcement activity.</b></li> </ul>
<b>OPTIONAL—Recording Not Required But Allowed</b>	<ul style="list-style-type: none"> <li>• Routine Vehicle Patrol</li> <li>• Traffic Control &amp; Traffic Points</li> <li>• Walking beats, directed patrol, corner posts, special attention checks</li> <li>• Completing Reports—no civilians present</li> <li>• Interviewing cooperative victims, witnesses, and persons with knowledge in a private residence or police facility</li> <li>• General photo queries, photo arrays, and physical line-ups</li> <li>• Parking enforcement—no civilians present</li> <li>• Security Surveys</li> <li>• Neighborhood Canvass</li> <li>• Community or neighborhood meetings</li> <li>• Routine walk-ups, conversations, or requests for information (e.g., giving directions)</li> <li>• Civilian Transports</li> </ul>	
<b>PROHIBITED—Recording not allowed</b>	<ul style="list-style-type: none"> <li>• Internal Police Conversations</li> <li>• Departmental Investigations</li> <li>• PSS/Farm-Out Interviews</li> <li>• RPD Locker Rooms &amp; Bathrooms</li> <li>• Personal, Non-Police Conversations</li> <li>• RPD &amp; Other Law Enforcement Meetings</li> <li>• Strip Searches &amp; Body Cavity Searches</li> </ul>	<b>N/A—Recording prohibited</b>
<b>Special Circumstances &amp; Additional Information—See BWC Manual</b>	<ul style="list-style-type: none"> <li>• Interrogations (G.O. 405)</li> <li>• CIs, street sources, citizen sources, or non-compensated informants</li> <li>• Non-Uniform/Undercover/Plainclothes Assignments &amp; Activities</li> <li>• Roll Calls &amp; Operational Briefings</li> <li>• Critical Incidents</li> <li>• Special Teams</li> <li>• MFF, Grenadier, protests, demonstrations &amp; civil disorder situations</li> <li>• Command Posts</li> <li>• RPD Training</li> </ul>	<b>See BWC Manual</b>