

# EXECUTIVE ORDER



DISTRICT OF COLUMBIA

<b>Subject:</b> <b>BWCs: Serious Uses of Force, Serious Misconduct, and Critical or High-Profile Incidents</b>
<b>Number</b> <b>17-002</b>
<b>Effective Date</b> <b>January 27, 2017</b>
<b>Related To:</b> GO-PER-120.23 (Serious Misconduct Investigations) GO-SPT-302.13 (Body-Worn Camera Program) GO-HSC-802.01 (Disasters, Attacks and Elevated Threat Warnings) GO-RAR-901.07 (Use of Force) GO-RAR-901.08 (Use of Force Investigations)

## I. PURPOSE

The purpose of this executive order is to announce updated procedures in the event that a BWC-equipped member is involved in or witness to:

- A. A serious use of force as defined in GO-RAR-901.07 (Use of Force);
- B. Serious misconduct as defined in GO-PER-120.23 (Serious Misconduct Investigations);
- C. A critical incident (e.g., active shooters, suspected terrorist events); or
- D. A high-profile incident where the immediate review of a BWC recording may be necessary for investigatory action.

In these cases, BWCs and Department-issued cell phones shall be collected and recordings uploaded as expeditiously as possible in accordance with this order.

## II. DEFINITIONS

When used in this directive, the following terms shall have the meaning designated:

1. Critical incident – a significant event in which the degree of impact on the community or government services is extreme and that demands a response of Department services that is beyond the routine. The incident may cause, or have the potential to cause, multiple injuries, cases of ill health, loss of life, extensive damage to property, or serious disruption to the normal flow of daily activities. Examples of critical incidents include, but are not limited to, an active shooter, a terrorist event, or a train derailment.

2. Serious misconduct – suspected criminal misconduct and the following specific forms of misconduct listed below:
  - a. All civil suits alleging any misconduct by an officer while acting in an official capacity;
  - b. All civil suits against an officer for off-duty conduct (while not acting in an official capacity) alleging physical violence, threats of physical violence, racial bias, dishonesty, or fraud;
  - c. All criminal arrests or filing of criminal charges against an officer;
  - d. All allegations of unlawful discrimination (e.g., on the basis of race, ethnicity, gender, religion, national origin, sexual orientation, or disability), including improper ethnic remarks and gender bias, but excluding employment discrimination;
  - e. All allegations of an unlawful search and seizure;
  - f. All allegations of an unlawful stop;
  - g. All allegations of false arrests or filing of false charges;
  - h. Any act of retaliation or retribution against an officer or person;
  - i. Any act of retaliation or retribution against a person for filing a complaint against a member;
  - j. All allegations of excessive use of force or improper threat of force (including strikes, blows, kicks, or other similar uses of force against a compliant subject or administered with a punitive purpose);
  - k. Any intentional failure to complete use of force reports required by MPD policies and in accordance with procedures;
  - l. Any intentional provision of false information in an MPD or an Office of Police Complaints (OPC) investigation or in any official report, log, or electronic transmittal of information;

- m. All incidents in which:
    - (1) A person is charged by an officer with assault on a police officer or resisting arrest or disorderly conduct; and
    - (2) The United States Attorney's Office (USAO) or the Office of the Attorney General (OAG) notifies MPD that it is dismissing the charge based upon officer credibility or a judge dismissed the charge based upon officer credibility;
  - n. All incidents in which MPD has received written notification from a prosecuting agency in a criminal case that there has been (1) an order suppressing evidence because of any constitutional violation involving potential misconduct by an MPD officer, or (2) any other judicial finding of officer misconduct made in the course of a judicial proceeding or any request by a federal or District of Columbia judge or magistrate that a misconduct investigation be initiated pursuant to some information developed during a judicial proceeding before a judge or magistrate. MPD shall request that all prosecuting agencies provide them with written notification whenever the prosecuting agency has determined that any of the above has occurred;
  - o. All referrals pursuant to Sections IV.A and IV.B (Regulations) of GO-PER-120.23 (Serious Misconduct Investigations); and
  - p. All positive tests under MPD's Drug Screening Program [GO-PER-100.24 (Drug Screening Program)].
3. Serious use of force – actions by members including:
- a. All firearm discharges by a member with the exception of range and training incidents, and discharges at animals;
  - b. All uses of force by a member resulting in a serious physical injury;
  - c. All head strikes with an impact weapon;
  - d. All uses of force by a member resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ;

- e. All incidents where a person receives a bite from an MPD canine;
- f. All uses of force by an MPD member involving the use of neck restraints or techniques intended to restrict a subject's ability to breathe; and
- g. All other uses of force by a member resulting in a death.

### **III. PROCEDURES**

- A. If a member is injured and must leave the scene of a serious use of force, serious misconduct allegation, critical incident, or other high profile incident to seek medical care, the watch commander shall ensure that the member's BWC and Department-issued cell phones are taken and handled in accordance with this order.
- B. Serious Uses of Force
  - 1. The watch commander on the scene of a serious use of force shall ensure:
    - a. All members involved in, or witness to, the force incident deactivate their BWCs as soon as the scene is secure.
    - b. All members' BWCs and Department-issued cell phones are collected and turned over to the ranking IAD member as soon as he or she arrives on the scene.
  - 2. The ranking Internal Affairs Division (IAD) member on the scene of a serious use of force shall ensure:
    - a. BWCs and Department-issued cell phones from all members involved in, or witness to, the force incident have been collected from the watch commander as soon as the scene is secure, and the related recordings are immediately uploaded into the BWC storage database.
    - b. Recordings are labeled and categorized in accordance with GO-SPT-302.13 (Body-Worn Camera Program).
    - c. BWCs and Department-issued cell phones are transferred to an official in the members' unit for return to members prior to their next shift.

C. Serious Misconduct Allegations

For allegations of serious misconduct where the immediate review of a BWC recording may be necessary for investigative action, the watch commander of the district of occurrence shall ensure:

1. BWCs and Department-issued cell phones from all members involved in, or witness to, the incident are deactivated and collected as soon as the scene is secure, and the related recordings are immediately uploaded into the BWC storage database.
2. When incident summary (IS) numbers are obtained, the IAD is notified of the collection of the BWCs and Department-issued cell phones.
3. Recordings are labeled and categorized in accordance with GO-SPT-302.13 (Body-Worn Camera Program).
4. He or she views the related recordings prior to the end of his or her shift in accordance with GO-SPT-302.13 (Body-Worn Camera Program).
5. BWCs and Department-issued cell phones are returned to members prior to their next shift.
6. The collection and download of the BWCs and Department-issued cell phones are documented on the PD Form 150 (Tour of Duty Supervisor's Report).

D. Critical Incidents

1. The incident commander on the scene of critical incidents shall ensure:
  - a. BWCs and Department-issued cell phones from all members involved in, or witness to, the incident are deactivated and collected as soon as the scene is secure, and the related recordings are immediately uploaded into the BWC storage database.
  - b. Recordings are labeled and categorized in accordance with GO-SPT-302.13 (Body-Worn Camera Program).
  - c. BWCs and Department-issued cell phones are returned to members prior to their next shift.

E. Other High Profile Incidents

1. In the event of a high-profile incident or other incident where the immediate review of a BWC recording may be necessary for

investigative action, the watch commander of the district of occurrence or the watch commander of the Criminal Investigations Division may authorize the deactivation and collection of BWCs and Department-issued cell phones of involved and witness members. The authorizing watch commander shall ensure:

- a. BWCs and Department-issued cell phones from all members involved in, or witness to, the incident are collected as soon as the scene is secure, and the related recordings are immediately uploaded into the BWC storage database.
- b. Recordings are labeled and categorized in accordance with GO-SPT-302.13 (Body-Worn Camera Program).
- c. BWCs and Department-issued cell phones are returned to members prior to their next shift.
- d. The collection and download of the BWCs and Department-issued cell phones are documented on the PD Form 150 (Tour of Duty Supervisor's Report).

#### IV. POINT OF CONTACT

Members may direct questions to the Policy Development Branch at [mpd.policy@dc.gov](mailto:mpd.policy@dc.gov).



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