

Mobile and Portable Audio Video Recorders

434.1 PURPOSE

The purpose of this policy is to establish guidelines regarding the use of video and audio recording equipment used by members of this department and its contents. The Bozeman Police Department provides officers with patrol car video systems, body-worn camera systems, interview room video systems, digital cameras, cell phones with applicable capabilities, and pocket audio recorders. These tools are provided to assist department personnel in the performance of their duties, enhance officer safety, provide recordings that may aid in the investigation and recollection of an incident for related prosecutions or civil actions, and enhance public trust by preserving factual representations of officer-citizen interactions.

434.1.1 DEFINITIONS

Recordings - For the purpose of this policy, the term "recording(s)" refers to any electronic recording of conversations or other spoken words or noises; and any electronic recording of visual images (with or without audio).

Recording Devices - For the purpose of this policy, the term "recording device(s)" refers to any department issued equipment designed to obtain recordings and includes but is not limited to body worn cameras, patrol car video system, interview room video system, digital pocket audio recorders, digital cameras used to capture video, and audio and video recording capabilities within cellular phones.

434.2 POLICY

It is the policy of the Bozeman Police Department to consistently use body worn cameras and other video and audio recordings to effectively and accurately document officer-citizen interactions, while taking into account individual privacy interests and constitutional rights.

434.3 GUIDELINES

(a) Body cameras required

1. All sworn officers with BPD must use Body Worn Cameras (BWC) when responding to a call for service except as provided for in sections d and e.
2. All sworn patrol officers must utilize a BWC while on duty. Designated civilian staff, including but not limited to crash investigators, special services officers and animal control officers may use a BWC as designated by the Chief of Police.
3. Patrol officers must wear the BWC in a conspicuous manner, attached to either the uniform shirt or external vest carrier. Other sworn officers and designated civilian staff must wear the BWC in a conspicuous manner when in use.

(b) Equipment and inspections

1. Prior to each shift, officers must examine all recording devices to ensure they are working properly.

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2. In the event a device malfunctions during an officer's shift, the officer should utilize appropriate back-up devices on scene and subsequently replace the malfunctioning device as soon as practicable during their shift. An officer must make proper notifications regarding malfunctioning equipment to ensure it is replaced or repaired.
- (c) When and where to record
1. Officers and the designated civilian staff will record audio and/or video of any call for service or investigation-related interaction with citizens whenever feasible or practical. This includes transports of persons in custody, courtesy transports, proactive enforcement contacts, and responses to calls for service.
 2. The BWC, patrol car video systems, and interview room video system are the primary tools for obtaining recordings. A BWC must be worn by all uniformed patrol officers while on duty.
 3. Officers must activate body worn cameras as soon as safe or practical to do so. Depending on the nature of the call and method of response, this may be prior to arrival, prior to making contact, or as soon as the call is initiated or received. This includes officers initially responding and backup officers.
 4. Officers are not required to advise citizens they are being recorded. If specifically asked, officers must inform the citizen if and how they are being recorded.
 5. Once a recording device has been turned on, the recording device should remain on until the entire incident or primary purpose initiating the recording has concluded.
 6. Officers shall electronically record interviews in a place of detention for the purpose of investigating a felony, or in the case of a youth, an offense that would be a felony if committed by an adult, if the interview is reasonably likely to elicit a response from the person being interviewed that may incriminate the person being interviewed with regard to the commission of an offense, in accordance with MCA 46-4-406 to 46-4-411.
- (d) When not to record
1. Officer or citizen safety would be jeopardized by activating a recording device.
 2. Accurate and complete recordings are an expectation of the community. Officers may consider recording audio only or placing a BWC in a manner so as to avoid capturing a person's image on video when a citizen requests they not be recorded, or when an officer responds to a location, such as a hospital, where citizens have a reasonable expectation of privacy. An officer may record audio only either upon a citizen's request or in the individual officer's discretion. The decision to record audio only shall be documented in the written report. An officer may not upon request or upon their own volition fully deactivate a recording device before the incident has concluded.
 3. When not engaged in an activity related to a call for service or investigation.

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4. When conducting tactical, command, or strategic, planning including but not limited to Drug Task Force operations.
 5. When the recording may capture discussions with City or County Attorneys providing legal advice.
 6. Absent a reasonable belief that a crime has been or is about to be committed, community events, public meetings or gatherings, and general assemblies will not be recorded. Calls for service initiated for these events or proactive patrol checks need not be recorded.
 7. Officers actively working an undercover operation or working with confidential informants.
 8. When there is an articulable officer or public safety concern and the gathering of equipment would unnecessarily delay response to a priority incident.
 9. Officers assigned as Task Force Officers with federal agencies are expected to abide by BPD guidelines outlining BWC use, as allowed by the partnering federal agency.
 10. Recording device fails or malfunctions and is not immediately apparent to the officer.
 11. When one of these exceptions to record occurs, the officer must document the occurrence in the call for service or written report.
- (e) Special considerations on restrictions on recording
1. Unless an officer is actively engaged in investigating the commission of a criminal offense, has someone in custody, or is responding to an emergency or reasonably believes they will be required to use constructive authority or force, an officer should not record in a school or youth facility, in a patient care area of a healthcare facility, or in a place of worship.
 2. School Resource Officers will be equipped with a BWC but the BWC will be off while on duty unless situations require activation of audio and/or video recording as described in section c.
 3. During Special Response Team call-outs and other significantly extended events where officers are not actively involved in interactions with the public, officers may deactivate their personal BWC recording. Officers must reactivate the camera if they become actively involved with the response and when engaging in interactions with citizens. Examples of when a personal BWC recording device may be deactivated include when officers are conducting extended surveillance, maintaining the perimeter of a tactical/emergency situation for extended periods, or conducting a search of an already secured residence or vehicle.
- (f) Preservation of recordings
1. All recordings shall be appropriately identified and maintained in the applicable designated location in accordance with the retention and preservation practices established by the department.

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2. At the conclusion of an officer's shift, the BWC will be placed in a designated docking station to allow all captured audio and/or video files to be uploaded to the server.
 3. Recordings obtained via a BWC, patrol car video system, or interview room video system will automatically be uploaded and may not be deleted or modified. Recordings obtained via other recording devices shall be preserved under the following situations:
 - i. If they are related to a criminal case cited or actively being investigated.
 - ii. When the recording is related to an investigation or involvement where there is a clear indication of, knowledge of, or notice of pending civil litigation.
 - iii. Officer or employee contacts involving use of force beyond verbal commands and compliant use of restraints.
 - iv. Internal investigations.
 4. One or more department staff members may be assigned primary responsibility for collecting, reviewing, organizing, copying and disseminating recordings.
 5. Recordings will be considered digital evidence for the purpose of case management and applicable policies and protocols.
- (g) Review or use of recordings
1. Officers may review recordings prior to preparing written reports or being interviewed during administrative/internal investigations.
 2. Officers shall not use the fact that recordings exist to write less detailed reports.
 3. Supervisors shall routinely review recordings to ensure that the recording devices are operating properly, that officers are using the recording devices appropriately, and to assess officer performance.
 4. Recordings may be used for training purposes.
 5. The personal use, possession, or distribution of a recording obtained during the course of an officer's duties is prohibited.
- (h) Release of recordings
1. Applicable laws relating to the release of recordings to the public, such as Freedom of Information Act (FOIA) or state public records law requests, will be handled on an individual basis, in consultation with the City of Bozeman Attorney's Office.
 2. Routine requests for the release of evidentiary recordings that may contain Confidential Criminal Justice Information pursuant to Title 44, Chapter 5 of MCA, shall be processed in accordance with the processed outlined by the Gallatin County Communications Records Division.
 3. Recordings of critical or sensitive incidents with considerable community importance or ramifications may be promptly or proactively disseminated at the

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discretion of the Chief of Police, or designee, and upon approval of the release of Confidential Criminal Justice Information by a District Court Judge. Variables considered in these situations will include:

- i. Public's right to know
 - ii. Privacy of involved individuals
 - iii. Impact on any court proceedings related to the incident
 - iv. Community benefit to the release of recordings:
4. Released recordings may be redacted to protect sensitive information or identifiers, or to protect an individual's privacy, when deemed appropriate.