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“INTEGRITY...FAIRNESS...SERVICE”

SPECIAL ORDER #2015-04

DATE: January 29, 2016

TO: All Police Department Personnel. To be announced at Roll Call and a Copy Posted on the Department’s intranet site.

RE: Addendum to Special Order #2015-04 (Electronic Control Device (ECD) Recording System Pilot Program).

EFFECTIVE: Immediately.

BACKGROUND: Special Order #2015-04 was distributed to Department members during February of 2015. This order began the Department’s pilot program evaluating the use of an ECD recording system. When this pilot began, the audio recorders of the Department’s ECD recording devices were disabled. This was done due to Maryland’s law at that time addressing the interception of oral communications. During the 2015 session of the Maryland General Assembly, Senate Bill 0482 was passed into law. This bill made revisions to Maryland’s law addressing the interception of oral communications. Due to these changes, law enforcement officers in Maryland may now create recordings using body-worn cameras and ECD recording systems that include audio. The Department will now enable the audio recorders of its ECD recording devices so that their potential can be fully and accurately evaluated.

This addendum updates Special Order #2015-04 to reflect that the Department’s ECD recording devices now record audio, and ensures Department members comply with the revisions that were made to Maryland’s law.

The Department has purchased recording attachments for use with the ECDs during a pilot program. These recording devices will help to capture crucial information in reference to members’ use of the ECDs. At the conclusion of the pilot program, a review will be conducted to determine if the Department will continue its use of the purchased recording system.

The recording devices purchased for the pilot program begin recording approximately two seconds after the ECD is armed. The recording device will continue recording until the ECD is no longer armed. The recording devices are able to store approximately 120 minutes of recorded material. Should an ECD remain armed for more than 120 minutes, the recording device will begin deleting the material recorded first, and save the most recent material in its place. It is important for data upload purposes to ensure that the ECD and the assigned recording device stay together. This is important not only for uploading recordings taken by the recording device, but also for uploading the ECD discharge information.

Information captured by the recording devices can be used in multiple ways to benefit the Department, its members, and the community. Recordings made while the ECD is armed can be used by the Department and ECD operator to explain why the weapon was used. Recordings made during the discharge of an ECD can be used to show that the weapon was used properly, or to identify areas in which training is needed. Recorded materials can be used as evidence in court proceedings, as training materials for law enforcement officers, and may be released to demonstrate departmental transparency.

ADDENDUM TO SPECIAL ORDER #2015-04 (Continuation)

Members are reminded that the existence of a recording does not decrease the need to complete a detailed written report. Recordings will not capture everything that is occurring during an incident (e.g., slight movements or resistance by the subject, different angles/perspectives, statements that were made by the subject but not captured, etc.). Recordings also fail to capture the officer's perception of what is taking place. It is of the utmost importance for members to understand the necessity for detailed reports when transcribing what was seen, heard, and felt by members prior to and during the arming and discharge of the ECD that may/may not be captured by the recording.

PURPOSE: To establish procedures for the use of a recording system with the ECDs during a pilot program.

RELATIONSHIP TO DEPARTMENTAL VALUES: This program supports the Department's values of **INTEGRITY, FAIRNESS, and SERVICE** by ensuring that members utilizing electronic control devices are capturing crucial data.

POLICY: It is important to understand that this document does not change the existing ECD policy and procedures addressing the use of the weapon; it merely introduces the use of a recording device during the pilot program. However, please note that the ECDs will no longer need to be taken to the Firearms Training Team (FTT) after each discharge if the incident was recorded using an ECD recording device. The discharge information will now upload each shift the weapon is used, and will occur during the recording upload process. To ensure the ECDs have received all of the required programming updates, they will need to be inspected by a member of the FTT every three months.

PROCEDURES:

GENERAL

- Only certified ECD operators who have been trained in the use and policy for the ECD Recording system will use it.
- Only recording systems owned, issued, and authorized by the Department shall be used.

CERTIFIED ECD OPERATORS TRAINED IN THE USE OF THE RECORDING SYSTEM

- Will use an ECD recording device, when available.
NOTE: When utilizing an ECD without a recording device, the procedures from Field Manual, Article 12, Section 4.1, Electronic Control Device (ECD) will be followed.
- Will be in uniform or have their badge or the Department's insignia prominently displayed when possessing an ECD equipped with a recording device that captures audio.
NOTE: Articles of clothing containing the word "Police" alone, do not satisfy this requirement.
- Will only be authorized to operate ECD recording devices with audio disabled when expressly exempted by the Chief of Police for covert assignments.
- Will not arm the ECD for the sole purpose of producing a recording, when use of the weapon is not justified.
- Are required to carry the recording device in the appropriate manner at all times.
- Perform all required testing to ensure adequate functioning, prior to placing the recording device into service.
NOTE: If the device malfunctions at any time, the officer must immediately notify a supervisor so that it can be taken out of service and transported to the Technology & Communications Section (TCS) for evaluation.
- Ensure the ECD recording devices are placed in the designated secure area when not in use.

ADDENDUM TO SPECIAL ORDER #2015-04 (Continuation)

- Document all uses of a recording device in an Incident Report, or complete a Form 12L, Intra-Department Correspondence, at the direction of the shift commander, to request deletion of accidental recordings and recordings related to incidents where no police report was written.
- Document in the Incident Report an explanation anytime the ECD recording device is turned off before the situation is resolved.
- Ensure that the ECD and the assigned recording device remain attached when storing the equipment and uploading videos.
- Notify their supervisor immediately in the event that a recording not of their making is discovered on the recording device during the uploading process.
- Place the ECD and assigned recording device into the charger at the end of each shift.

ECD RECORDING SYSTEM USE

- Once a recording has begun, recording will continue until the situation has been resolved by the subject being taken into custody and no longer resisting.
EXCEPTION: If the ECD operator switches to a different use of force, or must assist in taking the subject into custody.
- Members equipped with a recording device must advise the subject(s) that they are a police officer, and that they are being recorded, immediately upon activating the ECD unless it is unsafe, impractical, or impossible to do so.
NOTE: When members are not able to make the announcement immediately, they will advise the subject of this information as soon as it is reasonable to do so. Members are not required to make additional notifications to individuals who become a party to the conversation after the initial notice is given.
- Members will document in the incident report that a recording of the incident is available, and include the name of the certified ECD operator.
- If no report is written, or if an accidental activation of the recording device occurs, the officer will immediately notify his/her shift commander of the recording.

ACCESS TO AND VIEWING OF SYSTEM RECORDINGS

- Is limited to the:
 1. ECD/recording device operator, for the completion of incident-related forms/reports.
 2. Member completing the incident report/charging documents.
 3. Shift/unit supervisor/commander.
 4. Precinct/section commander.
 5. Chief of Police.
 6. Authorized members of the Firearms Training Team (FTT).
 7. Forensic Services Section (FSS) members.
 8. TCS members for support and administration.
 9. Internal Affairs Section (IAS) members.
 10. Designated Video Manager.
 11. Legal Section members.
 12. State's Attorney's Office.
 13. Any other member required to complete any form/report or make a written/oral statement.
- The Commander of the Technical Services Division may authorize additional individuals to view an ECD recording system recording on a case-by-case basis.

ECD SYSTEM RECORDINGS

- Are the property of the Department and prohibited from unauthorized release.
- Will be uploaded to the Department's storage system without exception.
- Will not be duplicated in any manner, unless authorized by the Chief of Police or the Designated Video Manager.
EXCEPTION: The IAS and FSS are not required to obtain authorization prior to producing copies for investigations, or as requested by the State's Attorney's Office.

ADDENDUM TO SPECIAL ORDER #2015-04 (Continuation)

- Will be released as required by the Maryland Public Information Act (MPIA) or other governing law.
- Will only be deleted upon approval by the Chief of Police or the Designated Video Manager.
- Will not be altered or modified by any member of the Department.
EXCEPTION: Redactions authorized by the Chief of Police or the Designated Video Manager.
- Are retained, at a minimum, for a period of three years from the date of the recording or until the date that the related criminal case has been resolved (including appeals and post-conviction proceedings); whichever period of time is greater.
EXCEPTION: Recordings recommended for deletion after review by a shift/unit commander.
- Will not be:
 1. Used to create a database or pool of arrest photographs.
 2. Used as fillers in any photograph identification.
 3. Searched using facial or voice recognition software.
EXCEPTION: Analyzing the recording of a particular incident when a supervisor has reason to believe a specific suspect or person in need of assistance may appear in the recording.
- Of a constitutionally protected activity may not be used to identify persons present at the activity who are not suspected of being engaged in illegal activity or in need of assistance.

MEMBERS UPLOADING ECD SYSTEM RECORDINGS

- Use only designated computers to download and upload recordings from an ECD recording device.
- Download recordings after each use or at the end of each shift.
- Use their assigned account for the downloading and uploading of the recordings.
- View recordings on designated ECD recording system computers prior to uploading the recordings.
NOTE: Once recordings are uploaded to the system they are no longer available to the officer.
- Tag recordings with the central complaint (CC) number and appropriate category tags.
- Contact the TCS in the event that an officer needs to view a recording that has been uploaded.
- Report any errors encountered while downloading or uploading recordings to the Office of Information Technology (OIT) Help Desk.

SQUAD/TEAM SUPERVISORS

- Ensure that ECD operators use the ECD recording system once they have been trained in its use.
- Submits all correspondence in reference to ECD recording system recordings to the member's commander.

SHIFT/UNIT COMMANDERS

- Notify the TCS at the beginning of each shift to assign an ECD with recording device to an officer through the PDnet web-request form.
- Review all accidental recordings or recordings where no police report was written to determine relevancy with regard to either a criminal or civil offense. The shift commander will then either direct that an Incident Report be written or will forward a Form 12L, Intra-Department Correspondence, to the precinct/section commander recommending deletion of the recording. The Form 12L should include the CC number, date, time, and location of the incident, the ECD operator's name, and justification for the deletion recommendation.

PRECINCT/SECTION COMMANDER

- Endorses recommendations for deletion of recordings, and forwards the Form 12L through the chain of command to the Designated Video Manager.

ADDENDUM TO SPECIAL ORDER #2015-04 (Continuation)

- Ensures the assigned ECDs are inspected by the FTT every three months.
- Ensures the assigned ECD recording devices are inspected by the TCS every three months.

FIREARMS TRAINING TEAM (FTT)

- Trains ECD operators in the use, care, and application of the ECD recording system.
- Includes alternative methods for effective notification of recording to persons with special needs or limited English proficiency in operator training.
- Notifies all officers captured in the recording, when a recording they appear in will be used for purposes of training.
NOTE: The officers may contact the Training Section Commander to request exclusion of the recording from training.
- Maintains records of ECD operators trained in the use of the ECD recording system.
- Receives and assigns ECD recording devices and corresponding equipment.
- Reviews recordings to identify potential ECD-use deficiencies, and makes appropriate recommendations when they are identified.

INTERNAL AFFAIRS SECTION (IAS)

- Reviews ECD recording system recordings for all incidents in which a use of force has occurred.
- May review any recording in the event of an alleged violation of law or administrative procedure.
- Ensures that the members and their representatives are given the opportunity to review recordings, prior to providing a statement during an administrative investigation.

TECHNOLOGY & COMMUNICATIONS SECTION (TCS)

- Maintains ECD and recording system inventory records.
- Provides first line support to ECD recording system field users.
- Works with the OIT for network-related support.
- Manages ECD recording system user accounts.
- Manages ECD recording system and device settings.
- Ensures the storage system is configured to:
 1. Enforce security and access controls satisfying County and Criminal Justice Information Services (CJIS) security standards.
 2. Automatically create and track audit trails and access logs, including all viewing, copying, and editing.
 3. Preserve unedited original versions of stored recordings.

DESIGNATED VIDEO MANAGER

- Produces copies of ECD recordings when requested by the State's Attorney's Office, or for the purpose of criminal investigations.
- Performs required redactions to recordings as directed by the Chief of Police.
- Notifies ECD operators when recordings made by them are approved for deletion.
- Maintains a log of all recordings approved for deletion.
- Notifies the ECD operator in a timely manner if a request (e.g., subpoena, MPIA, etc.) for a copy of a recording made by the officer will be honored.
- Authorizes redactions of information in recordings captured by the ECD recording devices as required by law, prior to release of the recording outside the Department.

LEGAL SECTION

- Receives, tracks, and responds to formal legal requests (e.g., subpoena, MPIA, etc.) for recording release and policy requests.
- Will be notified for consultation by the Designated Video Manager for redaction and release of recordings involving non-routine requests.

ADDENDUM TO SPECIAL ORDER #2015-04 (Continuation)

- May be consulted by the Designated Video Manager for direction related to duplication, deletion, or redaction of recordings, as needed.

CHIEF OF POLICE

- Authorizes deactivation of the audio recording capabilities for specific covert assignments.
- Has final authority regarding duplication, redaction, release, and deletion of recordings.
- Designates a Video Manager within the Department to act on his behalf.

IMPLEMENTATION: This Special Order will be distributed electronically to all Department members. Shift/Unit supervisors will be responsible for the referencing of this Special Order. This addendum supersedes Special Order #2015-04.

By order of,

James W. Johnson
Chief of Police