

## TAKOMA PARK POLICE DEPARTMENT - GENERAL ORDERS



	TITLE: <b>Photographic Evidence Collection</b>	NUMBER: 643B
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	New    X Amends    Rescinds	General Order 643B, dated January 31,2011
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**01 Purpose:** To establish policy and procedures relative to the use of photography, both conventional and digital, and videotaping pursuant to the collection and preservation of evidence.

**02 Policy:** It is Takoma Park Police Department policy to utilize photographs and/or video recordings for evidentiary documentation in accordance with procedures that ensure their future qualification as competent evidence and are consistent with applicable statutory and case law.

**03 Definitions:**

**A. Conventional Photography:** Conventional photography, or print film, is the process of forming stable or permanent visible images directly or indirectly by the action of light or other forms of radiation on sensitive surfaces. Traditional photography uses the action of light to cause changes in a film of silver halide crystals in which development converts exposed silver halide to (nonsensitive) metallic silver. Following exposure in a camera or other device, the film or plate is developed, fixed in a solution that dissolves the undeveloped silver halide, washed and dried.

**B. Digital Photography:** Digital photography, by contrast with conventional photography, uses electronic devices known as a CCD sensor and/or a CMOS sensor to record and capture the image as binary data. This binary data is immediately stored on an in-camera storage device. As such, the images can be displayed, printed, stored, manipulated, transmitted and archived using various kinds of digital technology, including personal computer and the Internet.

**C. Forensic Photography:** Sometimes referred to as forensic imaging or crime scene photography, forensic photography is the art of producing an accurate reproduction of a crime scene or an accident scene for the benefit of a court. It is part of the process of evidence collecting. It provides investigators with photos of bodies, places, items involved in the crime. Pictures of accidents show broken machinery, or a car crash, etc. Photography of this kind involves choosing correct lighting, accurate angling of lenses, and a collection of different viewpoints. Scales are often used in the picture so that dimensions of items are recorded on the image.

**D. Traffic Collision Photography:** Traffic collision photography encompasses accident photographs

taken from many different angles and which show the overall layout at the scene, with close-ups of significant damage, or trace evidence such as tire marks at a car crash scene. As with crime scene photography, it is essential that the site be as pristine and untouched as possible. Any essential intervention (such as rescuing a trapped victim) must be recorded in the notes made at the time by the photographer, so that the authenticity of the photographs can be verified.

**E. Surveillance Photography:** Surveillance photography includes both overt and covert use of conventional and/or digital photography, digital or analog video recording, in-car camera systems or speed cameras used to record and document suspected criminal activity and/or traffic violations.

**F. Document Photography:** Document photography is the use of forensic imaging techniques to record paper documents of evidentiary value, such as receipts, checks, U.S. currency, notes, ledgers, etc. Special techniques are utilized to ensure these images are properly exposed in order to capture details of a document.

**G. Critical Incident Photography:** All of the previously described forms of still and video imaging systems are used to document natural or man-made disasters.

**H. Photographic Identification:** Still image documentation of individuals is accomplished by means of conventional or digital photography and is used to document an individual's physical identity.

**04 Assumption:** While the Department operates a conventional 35mm silver halide based system and a complete digital imaging system, the gravitation is toward the latter because it is the latest progression in the technological evolution of imaging and complements the continuing integration of computer systems. In addition to the conventional 35mm camera, the Department is now able to capture images via Digital Single Lens Reflex Camera, Compact Digital Camera, and Flatbed scanner systems.

## **05 Digital Imaging Procedures:**

### **A. Responsibilities:**

1. Each individual officer, investigator or civilian employee charged with the documentation of crime scenes or photographic evidence collection will be responsible for uploading their individual files into the Montgomery County Police Department's Image Database Management System (IDMS).
2. The Criminal Investigations Division will be responsible for the transfer of images captured in the processing of crime scenes and surveillance operations. These files will be uploaded to IDMS as required and maintained in the pertinent case files.

3. The Patrol operations Division will be responsible for the accomplishment of forensic, traffic collision, and critical incident photography in instances wherein no Criminal Investigator or Crime Scene Technician is able to respond and there is still a need for photographic evidence collection.

**B. Digital Imaging Equipment:**

1. Patrol personnel will utilize Digital Single Lens Reflex Cameras and Compact Digital Cameras, capable of producing digital files with a minimum resolution of 1280x960 pixels. They will further be equipped with an on-camera viewer, macro capability, flash and removable secure digital storage media. CID personnel will be equipped with advanced digital imaging equipment for specialized applications. At a minimum, the equipment will be able to produce a resolution of 2404x1536 pixels. CID personnel will also utilize Digital SLR type systems with the ability to accommodate medium and long telephoto lenses.

2. All digital equipment will be calibrated using the internal calibration methods indicated by the equipment manufacturer.

3. Secure digital and compact flash memory cards with a minimum 20x write speed will be used to capture digital image files. Single write CD-R and DVD-R discs will be used to make copies of image files, if needed, prior to loading into IDMS.

Only approved media cards issued with agency equipment is to be used to store digital image files.

4. The condition and upkeep of digital equipment issued to departmental personnel is the responsibility of each individual employee to whom it is assigned.

5. Adobe Systems, Photoshop, and Commercial Suite will be utilized as the standard software for image enhancement. This software will be used because of its ability to capture the image's metadata, which is the binary code embedded in each image file.

**C. Capturing Digital Images:** Digital Imaging may be used to capture the following:

1. Any crime scene, to include motor vehicle crashes. If the crime scene contains impression evidence, such as shoe and tire impressions, the images will be captured using specialized equipment and backed up by print film photography.

2. Fingerprints, whether at the crime scene or as a result of evidence processing.

3. Identification photographs of any type (e.g., mug photos after arrest, suspects or persons of investigative interest to be included in Field Interview Reports, scars, marks and tattoos, etc.).

**D. Who May Be Photographed:** An individual may be photographed in the following situations:

1. Following an arrest;
2. To confirm identification following the issuance of a criminal or civil citation;
3. When stopped on “reasonable” suspicion of criminal activity;
4. During surveillance operations;
5. Whenever a Field Interview report is written;

### **Special Procedure for Juveniles photographed during a Field Interview**

A. The officer who initiated the Field Interview will make a photocopy of the Field Interview Report, to include reason for stop, parent/guardian name and contact information. The officer will attempt to contact the parent and inform them of the stop. The officer will note the attempt on the FIR.

B. The photocopy of the Field Interview Report will be forwarded to the Executive Assistant.

C. The Executive Assistant will send a letter via certified mail to the parent/guardian that their child/ward was stopped and photographed by police for suspicious circumstances. The Executive Assistant will maintain a record letters sent and received.

6. When consent is given:

- Consent is required to photograph an individual during routine field contact if there is no “probable cause” or “reasonable suspicion of criminal activity. The individual must freely give consent. The individual must not be threatened, pressured, or coerced into giving consent.
- Consent is not required to photograph an individual who is arrested; issued a criminal or civil citation; stopped on “reasonable suspicion” of criminal activity; detained on the premises that is the subject of a Search and Seizure Warrant and during execution of that warrant; interjected into a surveillance operation.
- Reasonable force may be used to compel an individual to submit to a photograph when under arrest. The use of physical force to compel an individual to submit to a photograph who is not under arrest is prohibited.

**E. Submission of Digital Images:** First responders and/or personnel designated to process a crime scene will take photographs of the scene in accordance with procedures denoted in General Order 643 - Evidence Collection & Preservation. Once the images are captured, the photographer will be responsible for transferring the digital evidence from the media card into the Montgomery County Police Department's IDMS System. The transfer will be accomplished as follows:

1. Upon completion of the crime scene processing, the employee will report to either of two digital imaging workstations in the Department to off-load the images. Station #1 is located in the Administrative Services area on the computer designated PD 4. Station #2 is located within the CID area.
2. If a copy of the images is needed, it must be obtained prior to loading the images into the IDMS system. This can be affected by using the back-up CD/DVD burner located at each imaging workstation. Any copies are to be treated as evidence only in the event the IDMS system is not in operation.
3. To load images into IDMS, access the icon located on the computer's desktop and follow message prompts indicated by the IDMS program. During this process, the system will ask if a thumbnail print file is required. Select "yes" to have a thumbnail printed that will be included in the Officer's/Investigator's case file. Once the upload process is complete, the IDMS program will physically remove all the selected image files from the media card and secure them as evidence.
4. Place the media card back into the assigned camera and reformat the card in accordance with the manufacturer's instructions. Media cards must be reformatted prior to being placed back into service.
5. If the IDMS system is out of service follow the direct burn CD-R instructions located at the digital imaging workstation. Upon completion of the burning process, label the CD/DVD with the case/event number, employee ID number and date. Insert the CD into the CD evidence envelope and place it in the evidence locker designated for storing digital image CD-Rs/DVD-Rs. The Digital Image Coordinator is responsible for uploading these files into IDMS as soon as the system goes back into service.
6. Images can be queried by accessing the Quetel application associated with IDMS. The Digital Image Coordinator, Evidence Custodian, and personnel designated by the Criminal Investigations Commander will have access to query the system.

**F. Digital Image Enhancements:**

1. No image enhancements are to take place outside the Criminal Investigations Division. All image enhancements will be treated as evidence processing and completed only by personnel appropriately trained in the use of image enhancement software.
2. Enhancements can be made from seized evidence, surveillance footage, and crime scene photographs. Once it has been determined that an image is to be enhanced, a "working image" will be made by copying the acquired "original image" from the original CD-R or a copy of the file obtained from the IDMS database. The file will be copied to the CID digital imaging workstation and stored in the "Enhanced" directory.
3. Only normal darkroom techniques will be applied to any digital image. This includes, but is not limited to, the overall lightening or darkening of images, normal cropping to fit printers, color balancing, contrast adjustment, un-sharp masking and multi-image averaging. The binary code of enhanced images will not be altered or manipulated in any digital file.

**G. Video Media:** The Department utilizes VHS, Hi8 and digital media to accomplish the recording of moving pictures (video). The Digital Image Coordinator will certify any video equipment used in a professional capacity within the Department.

1. Video media will be used to supplement still photography as needed.
2. Video media that is considered evidence will be submitted to the property custodian with appropriate documentation for evidence storage. Any video media stored as evidence will be held for 180 days, or pending the adjudication of judicial proceedings.

**06 In Car Video Camera Procedures:**

**A.** The Department will utilize the In Car Video Camera (**ICVC**) for the purpose of accurately documenting events, actions, conditions and statements made during citizen contacts, arrests and other critical incidents.

**B.** Video and/or audio recordings will be utilized to enhance criminal/traffic reporting, evidence collection, investigations, prosecution, and training.

**C.** Legal Considerations Regarding ICVC Use:

1. Maryland law makes it unlawful, with some exceptions, for any person to intercept, endeavor to intercept, disclose, endeavor to disclose, use, or endeavor to use any audio communication unless all parties to the communication have given prior consent to having the audio recording made. *Md. Code. Ann., Cts. & Jud Proc. § 10-402 (2002)*.
2. Therefore, officers will not utilize the ICVC to make *audio* recordings unless consent is obtained or the audio recording is made pursuant to the exceptions outlined in this order below.
3. It is important to recognize that State law does not restrict or place consent requirements on *video* recordings made without audio.
4. The following is an exception to the State law and allows officers to utilize the ICVC to make both video and audio recordings without the consent of the parties to the conversation.

An Officer may make an audio recording if all of the following apply:

- The law enforcement officer initially lawfully detained a vehicle during a criminal investigation or for a traffic violation;
- The law enforcement officer is a party to the oral communication;
- The law enforcement officer has been identified as a law enforcement officer to the other parties to the oral communication prior to any interception;
- The law enforcement officer informs all other parties to the communication of the interception at the beginning of the communication; and
- The oral interception is being made as part of a video tape recording.

**D. Operation of the ICVC:**

1. The use of video recording equipment by officers who operate vehicles so equipped is mandatory.
2. Officers will wear the audio recording transmitter on their person at all times while on duty.
3. Officers should attempt to keep the video camera positioned in such a manner as to capture the event in its entirety.
4. Notices will be conspicuously posted in both the front and rear compartments of ICVC-equipped vehicles stating that audio/video recording is in progress.

5. The video recording is automatically activated whenever:

- Emergency lights are activated
- Remote microphone transmitter is activated
- Vehicle collision detector is activated
- Manual activation in the vehicle

**E. Traffic Stops:**

1. Officers will make audio and video recordings of all traffic stops and vehicular pursuits.
2. Whenever possible, the recording will capture the entire stop, starting when the decision is made to pull over the violator and ending after the violator has left the scene.
3. At the beginning of every traffic stop, the officer will notify the person(s) stopped that they are being audibly and visually recorded. The officer's statement should be similar to the following example:

"Hello. I am (rank and name) of the Takoma Park Police Department. I stopped you for (violation). We are being audibly and visually recorded. May I please see your driver's license and vehicle registration?"

4. If the driver or any occupant of the vehicle objects to the audio recording, they should be courteously informed that Maryland law allows audio recording for law enforcement officers conducting traffic stops.
5. If the traffic stop becomes a criminal detention, the officer can and will continue to make both a visual and audio recording without obtaining consent.

**F. Prisoner Transports:** Video recordings will be made of all prisoner transports. If the prisoner being transported gives consent, an audio recording will also be made.

**G. Non-Traffic/Other Uses:**

1. Officers will begin any field interview or other citizen contact with the audio turned off. The audio will only be turned on if circumstances exist that will allow the officer to ask and obtain consent from all parties to the conversation without creating a safety hazard to the officer or any other person at the scene.



2. Officers will make every effort to video record (consent required to record the audio) all potentially criminal field contacts/suspicious vehicles, etc. that occur within camera range.
3. At the officer's discretion any other incident may be video recorded when the officer feels the recording may have prosecutorial or investigative merit. Examples of such uses are large crowds, accident scenes, permit checks, etc.

**H.** Whenever a video/audio recording is made of a crime or incident and a written report is generated, a note of recording, or multiple records if more than one officer recorded the event, will be included in the narrative portion of the report.

**I.** When preparing written reports, officers are encouraged to utilize the video recording system's playback feature to review the incident.

**J.** Officers will not use the ICVC to covertly record other police personnel.

**K.** The Department recognizes that it may not always be practical to activate the ICVC equipment. Officers will not allow the operation of the ICVC to interfere with their own personal safety, the personal safety of others, or the safe operation of the vehicle.

**L.** Video Tape/DVR Handling:

1. User Responsibility:

- Officers should be aware of the remaining available recording time of the DVR currently in use.
- The Operations Division Commander will designate an ICVC Coordinator who will be responsible for the weekly replacement of fleet DVRs and the download of any digital media to be maintained as evidence pending criminal or traffic proceedings.
- Officers will not, in any manner, attempt to modify, erase, or tamper with any portion of the recorded DVRs. The ICVC DVRs are property of the Takoma Park Police Department.
- All recorded arrests or other incidents that an officer feels may be of evidentiary value shall be recovered by the ICVC Coordinator and held as evidence. After the video media is removed from the ICVC it will be stored in the secured server or DVR. A secured cabinet and server shall be located in a secure site to be determined by the Operations Division Commander. In the event a DVR is submitted as evidence, the officer will notify the States's Attorney's Office that a video recording of the arrest has been made. The ICVC Coordinator will make a copy of the DVR for the investigating officer to submit with his/her case.

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– DVRs and media stored on the secured server and held as evidence will continue to be held for a period of 180 days or until final adjudication of the judicial proceedings.

### 2. Supervisors Responsibilities:

– The ICVC Coordinator will ensure that all DVRs and storage media are stored in a locked file cabinet located in the secure site designated by the Operations Division Commander.

– Squad Sergeants will ensure that ICVCs are being used properly by their personnel.

– The Squad Sergeants and ICVC Coordinator will ensure an adequate supply of DVRs are available when required.

– The ICVC Coordinator will log in assigned DVRs indicating which cruiser number it was placed in.

– When a DVR is used to its capacity, and it has not been designated as evidence, it will be logged into the ICVC Coordinator's secured storage cabinet. DVRs will be stored and recycled every 30 days, or as indicated by the Patrol Operations Commander or designee.

– The ICVC Coordinator will maintain a log of all DVRs to be checked out as evidence by its DVR number. When a DVR is returned, it will be logged back into the secured storage cabinet.

### M. Review

1. The ICVC Coordinator will review the DVRs monthly to ensure the officers are properly using the system and document such on their monthly reports. Squad Sergeants will also review their team members DVRs to aid in training and to improve the quality of enforcement techniques.

2. If a supervisor feels that a DVR may be useful as a training tool, he/she will notify the Training Officer and log out the DVR for review. No DVR will be used for training purposes while its case is being litigated.

3. Officers may review a recording by submitting a request through the chain of command to the Operations Commander. If approved, the officer's supervisor will make the recording available. Officers will not copy the recording nor will the recording leave the station.

4. All requests to review recordings by civilian personnel or outside agencies will be submitted in writing to the Chief of Police.

5. Only the ICVC Coordinator or designee will be authorized to copy recordings.

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6. Only a copy of the original DVR will be released. The original DVR will not be released unless by Court Order and then only after review of the order by the Chief of Police.

**N. Internal Use of Recordings:**

1. The in-car camera system is not intended to be used as a disciplinary tool against officers for minor infringements of policies or procedures.

2. Supervisors will not arbitrarily review video/audio recordings for the purpose of identifying minor infractions of departmental policies or procedures.

3. However, when cases of misconduct and/or repetitive negative behavior are brought to the attention of the Department via supervisory review and/or official complaint, the DVR may be reviewed and used as the basis for performance counseling or disciplinary action.

4. The Department may use DVRs for training or other purposes as approved by the Chief of Police or his/her designee.

5. ICVC video/audio recordings may be used by Field Training Officers to review the actions of probationary officers participating in the field-training program.