

McCRACKEN COUNTY SHERIFF



GENERAL POLICY	IDENTIFIER 16.02	EFFECTIVE DATE: 11/08/2020 REVISION DATE: New
AUTHORIZED BY: Sheriff Matt Carter		REVIEWED DATE: New REVIEWED BY: New
TITLE: BODY WORN VIDEO RECORDING REPLACES: New		
STATE STANDARDS:		

Body Worn Video Recording (BWV)

- I. Purpose:** The purpose of this policy is to direct deputies and supervisors in the proper use and maintenance of Body Worn Video Recorders (BWV) also referred to as “bodycams” as well as directing how video will be utilized as a quality control mechanism and evidence.
- II. Policy:** The policy of this agency is to provide officers with body worn video recording devices in an effort to collect evidence to be used in the prosecution of those who violate the law, for deputy evaluation and training, and to provide accurate documentation of law enforcement and citizen interaction. The use of a BWV system provides persuasive documentary evidence and helps defend against civil litigation and allegations of deputy misconduct. It serves as a tool to protect deputies from false complaints concerning official misconduct. Deputies assigned the these devices shall adhere to the operational objectives and protocols outlined herein so as to maximize the effectiveness and utility of the BWV and the integrity of evidence and related video documentation.
- III. Procedure:** It is the intent of this policy that all deputies who will be using BWV equipment shall be trained on the manner in which the BWV shall be tested, maintained, used and how the recorded events will be properly documented and maintained as evidence in future judicial proceedings.

- A.** It shall be the responsibility of each individual deputy to test the BWV equipment at the beginning of each tour of duty. Deputies equipped with the BWV will ensure that the batteries are charged prior to the beginning of their shift or special event. In the event that the equipment is found to be functioning improperly, the deputy shall report the problem immediately to their immediate supervisor or on call supervisor so that the information can be documented, and arrangements made for repair or replacement.

IV. Uniformed Deputies assigned Body Worn Video cameras will wear them at all times while on duty in any type of uniform. BWV will be worn according to manufacturer's specifications and/or recommendations. Deputies will make every reasonable effort to ensure that the BWV recording equipment is capturing events by positioning and adjusting the BWV to record the event.

- A.** It is the policy of this agency to record with audio and video the following incidents by use of either the in-car camera system or the BWV (if assigned):
- a. All calls for service in which citizen contact is made
 - b. All traffic stops
 - c. All citizen transports (excluding ride-alongs)
 - d. All investigatory stops
 - e. All foot pursuits

Examples of these incidents include, but are not limited to:

- i. Arrest of any person
- ii. Searches of any kind
- iii. Seizure of any evidence
- iv. Request for consent to search
- v. Miranda warnings and response from in custody suspects
- vi. Statements made by citizens and suspects
- vii. K-9 searches of vehicles
- viii. Issuances of Written Violations (**DO NOT CHECK THE BLOCK INDICATING IN-CAR VIDEO UNLESS IT EXISTS. INDICATE BODY WORN CAMERA / VIDEO IN THE NARRATIVE SECTION**)
- ix. Arriving at law enforcement events and/or citizen contacts initiated by other deputies
- x. Other incidents the deputy reasonably believes should be recorded for law enforcement purposes

- B.** The recording shall continue until the law enforcement event or citizen contact is completed and the citizen involved departs or until the deputy, who is recording the event through a BWV, discontinues his or her participation in the law enforcement event or citizen contact by leaving the scene. In the event a deputy deems it

necessary to stop recording, he or she should make a verbal statement of their intent to stop the recording and his reason.

- C.** When a BWV recording is being entered into the property and evidence storage and management area of the agency it should be done according to existing agency policy governing the retention of evidence.
- D.** If a deputy assigned BWV equipment participates in a law enforcement event or citizen contact and becomes aware that the event was not recorded using the BWV equipment, the deputy shall notify their supervisor or the on call supervisor that the event was not recorded and should notify them as to the reasons. The notification to the supervisor shall be in e-mail form and shall be forwarded through the chain of command before the end of shift.
- E.** Non evidentiary recordings and images will be down loaded every 48 hour period to the agency's server and retained for a period of 180 days before being purged. Deputies may download daily, but shall not wait more than 48 hours. Vacation, sick leave or other leave does not relieve the deputy of this responsibility unless specifically authorized by command level supervision. Documentation is required and the download will be completed as soon as practical.

V. Issues Related to Privacy:

- A.** The BWV should not be activated when the deputy is on break or otherwise engaged in personal activities or when the deputy is in a location where there is a reasonable expectation of privacy, such as a restroom, locker room or similar. Proper decorum shall be observed when recording injured suspects or victims that are in a hospital room or emergency department treatment room. Deputies shall be cognizant of the medical need to expose different areas of the body for examination and should record only those areas that reflect an injury. Victims of sexual assault should be advised a recording is being made and the investigative reason for the recording.
- B.** For safety and confidentiality reasons, encounters with undercover officers or confidential informants should not be recorded unless engaged in enforcement activity.
- C.** Undercover personnel or plainclothes personnel are exempt from this policy where utilizing a camera may create a dangerous situation or otherwise diminish the investigative success of the operation.
- D.** BWV activation is limited to situations involving official police activities authorized by law or court order, including consensual citizen encounters and investigation of law violations.
- E.** The purposeful-intentional activation of BWVs during personal conversations between officers and between officers and supervisors involving counseling, guidance sessions, or personnel evaluations is prohibited by this policy unless all parties present agree to be recorded. Violations of this section may result in termination/dismissal. (MCSO P&P 12.02)

VI. Supervisory Responsibility TAPES or other storage media

- A.** The original digital files from body worn video recorders will be downloaded and stored on a designated storage location to prevent destruction. Deputies will download video and audio files at least every 48 hour period of their work week. Video of an evidentiary nature will be downloaded by the end of the next work day.
- B.** Non-evidentiary video and audio recordings will be maintained on the designated storage location according to KRS and/or the applicable records retention schedule after their creation. They shall be purged after 180 days.
- C.** This media will be subject to the same restrictions and chain of evidence safeguards as detailed in the agency evidence control procedures.
- D.** Media will be released to another criminal justice agency for trial or other reasons by having a duplicate copy made. All recorded media, recorded images and audio recordings are the property of this agency. Dissemination outside the agency, other than for court proceedings, is strictly prohibited without specific authorization of the Sheriff or designee.
- E.** To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the office BWV technician or authorized IT staff.
- F.** Unauthorized and/or malicious destruction, editing, or deletion of video and audio files is prohibited. Disciplinary action will be mandatory.
- G.** All digital video and audio files are subject to open records request as allowed by Kentucky law. Recordings that are the subject of a denied open records request must be maintained until the dispute between the agency and the person or entity requesting the recordings is resolved. This policy shall not circumvent the discovery process if held as evidence in any criminal proceeding. It shall not be subject to an open record request if the criminal investigation is still ongoing or an appeal to a higher court is in progress.
- H.** Digital media from the BWV shall be stored on a secured server with access limited to supervisory personnel designated by the Sheriff.
- I.** At least once every 60 day period, supervisors should review a recorded event of each deputy under their supervision.
- J.** Supervisors should use these reviews as a quality control measure. Following such a review, the supervisor will hold a meeting with the deputy and provide the deputy with either positive reinforcement or constructive criticism with respect to the activity reviewed. Constructive criticism may relate to officer safety issues, demeanor, policy issues or legal issues related to the stop as well as any other supervisory observation relative to performance.

- K. In cases of infractions, the agency head or his/her designee shall determine proper disciplinary or corrective action.
- L. It is recognized that the camera has a much wider field of view than the human eye; especially when the deputy is under stress. With this in mind, the deputy will have the right to review any audio/video recording(s) available before making a formal statement concerning a citizen's complaint, an internal complaint, response to resistance statement, or any other internal investigation excluding a criminal investigation. This section shall not apply to any criminal investigation being conducted by another law enforcement agency.

VII. Use of BWV Recordings as Evidence in Criminal/Motor Vehicle Prosecutions

- A. When an officer makes a recording of any action covered by this policy and a citation is issued or an arrest is made, the officer shall note on the uniform citation that a video has been made. **Do not** check the video block on the uniform citation unless in car video does exist. Note the existence of body worn camera video in the narrative section of the citation and list in the proper block on a NIBRS report.
- B. Where there is any indication that the BWV may contain "*Brady*" material, that recording must be saved and turned over to the prosecutor assigned to the case in accordance with the "Duty to Disclose" policy of this department.
- C. Civilians shall not be allowed to review recordings except as: approved by the Sheriff or Chief Deputy or their designee; through the process of evidentiary discovery; and/or by proper public records request.

VIII. Assignment of BWV's to Deputies

- A. Detectives, administration, and other agency personnel are not assigned body worn cameras, however body worn cameras may be available for them to use on a case by case basis. Nothing in this policy shall be construed to mean that all personnel will always have a body camera as part of their daily work routine.