

Body Worn Camera System

Index Code: 503

Effective Date: 11/01/15 (Revised 6/2/2020)

I. Purpose

The purpose of this directive is to establish uniform procedures for the use of Body Worn Cameras (BWC) by sworn employees of the Queen Anne's County Office of the Sheriff.

II. Policy

1. BWCs allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.

2. Audio and video recordings also enhance this agency's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.

3. The BWC may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

4. Only BWC equipment and recordings authorized by the Office of the Sheriff may be used.

III. Definition

For purposes of this directive, the Body-Worn Camera System (BWCS) is a camera system worn on the person of a uniformed law enforcement officer, or an officer prominently displaying the officer's badge and/or other appropriate insignia to clearly identify them as a law enforcement officer, and is capable of recording video and intercepting communications. (Note – Articles of clothing containing the words "Police" alone do not satisfy the "wearing insignia" requirement.)

IV. Legal Considerations

A. Pursuant to the "State Wiretap Act" under Sections 10-401, et seq. of the Courts and Judicial Proceedings Article of the Maryland Annotated Code, it is unlawful for any person to

willfully intercept, endeavor to intercept, disclose, and endeavor to disclose, use, or endeavor to use any oral communications, except as otherwise specifically provided in this title. "Oral communication" means any conversation or words spoken to or by any person in private conversation.

B. The State Wiretap Act makes it lawful for a law enforcement officer, in the course of the officer's regular duty, to intercept an oral communication with a body-worn digital recording device capable of recording video and oral communication if:

1. The law enforcement officer is in uniform or prominently displaying the officer's badge or other insignia;
2. The law enforcement officer is a party to the oral communication;
3. The law enforcement officer notifies, as soon as practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so; and
4. The oral interception is being made as part of a videotape or digital recording.

C. The State Wiretap Act also makes it lawful for a law enforcement officer to intercept an oral communication where the officer is party to the communication, and where all parties to the communication have given prior consent to the recording. This provision as well as that of B 3 above are satisfied even if another individual becomes a party to the communication after the initial notice has been provided.

V. General Operating Procedures

A. Only deputies trained in the proper use of the BWCS are authorized to use the system.

B. The Chief Deputy shall designate a commander to oversee the BWCS as its

manager. That commander should designate a subordinate as their assistant.

C. Prior to going into service at the beginning of each shift, deputies will perform an inspection of the BWCS in accordance with their training to ensure that the BWCS is operating properly. If there is a malfunction of the BWCS, the affected deputy must report the malfunction to their on-duty supervisor as soon as practical, notify dispatch and document the malfunction by way of interoffice correspondence. The on-duty supervisor shall assure that the BWCS manager is informed of the malfunction for appropriate resolution.

D. Deputies will wear their BWCS in the manner consistent with their training at all times with the power on.

E. Deputies are only authorized to use a BWCS while in uniform or when prominently displaying the deputy's badge or other insignia.

F. Regarding secondary employment, if the deputy is authorized or required to wear their uniform or prominently display their QASO badge or other insignia, the BWCS must be utilized

G. Deputies will only wear a BWCS issued by the Queen Anne's County Office of the Sheriff.

VI. Activation of the Body Worn Camera System

A. Deputies will only activate the BWCS for legitimate law enforcement purposes.

B. Deputies will notify individuals that they are being recorded as soon as practical, unless it is unsafe, impractical, or impossible to do so.

C. Members wearing a BWC will activate the device as soon as possible (unless it is unsafe, impractical, or impossible) when their vehicle's emergency equipment is activated. In cases when the vehicle's emergency equipment has not been activated such as due to a cold response, the BWC must be activated at least prior to the deputy's arrival on the scene of any call for service, incident, traffic stop, etc. (The testing of a vehicle's emergency equipment or other ceremonial activation does not constitute a reason for activation of the BWC.)

D. The BWCS must be activated during all law

enforcement related encounters and activities such as, but not limited to, the following:

1. **At the initiation of a call for service or when involved in any activities that are investigative or enforcement in nature.**

2. Other activities of a potentially confrontational nature.

3.

4.

3. Custodial transports.

E. Once the BWCS has been activated, deputies will continue to record until the deputy has left the scene and anticipates no further involvement in the event, the event has concluded, or a supervisor has authorized the recording to cease. An event will be deemed "concluded" when:

1. All arrests have been made and the detainees have been transported and released from custody;

2. All witnesses and victims have been interviewed;

3. The continued recording will not serve to obtain additional evidence; and

4. No further law enforcement action is likely to occur.

F. Whenever the BWCS equipment is utilized for a law enforcement related incident/matter, and is deactivated by the deputy prior to the conclusion of the incident/matter, the deputy must record a brief verbal explanation for the deactivation prior to deactivating the recording.

G. There may be instances in which deputies are required to take immediate action which may not allow time to activate their BWCS equipment. In these exigent circumstances due to the sudden onset of events out of the deputy's control, the deputy will activate his/her BWCS as soon as it is safe to do so and document the reason for the delayed start in the incident report and/or as part of the recording. At no time should a deputy jeopardize his/her own safety or the safety of another in order to activate their BWCS.

H. In situations when community members, witnesses, crime victims or other parties wish to share information related to criminal activity, but refuse to do so while

being recorded, deputies will have the discretion to turn off the BWCS during the interview.

I. Supervisory personnel may turn off and remove their BWC when involved in personnel matters or with members of the public if, in their best judgement, the presence of the BWC will inhibit positive communication. The reasoning for the deactivation of the BWC shall be documented.

J. Deputies are required to obtain consent prior to a BWCS recording of an interview with a victim of a sex offense if it is not possible to have that interview in a preferred controlled environment. Consent in these cases must be documented and/or recorded on camera.

VII. Prohibited Use

A. A BWCS will not be used in areas where there is a reasonable expectation of privacy including but not limited to medical facilities and schools except when a situation arises that the deputy believes serves a legitimate law enforcement purpose.

B. A BWCS will not be used to create recordings of strip searches.

C. A BWCS will not be used to surreptitiously record conversations of citizens and employees.

D. A BWCS will not be intentionally activated to record conversations of fellow deputies or civilian employees without their knowledge and consent during administrative and non-enforcement related activities.

E. Deputies will not intentionally record undercover deputies or confidential informants without their consent.

F. BWCS use is prohibited in the Court Commissioner's Office during normal proceedings. The BWCS should be activated in the event of an altercation that occurs beyond the normally accepted course of business in the Court Commissioner's Office.

G. Any time a Deputy is interacting with a violator/suspect/Defendant and any communication, whether in person or via phone, is being made with an attorney by the violator/suspect/Defendant, then all body camera operation SHALL cease and, upon completion of the interaction or phone call with the attorney, the camera shall be re-activated. Additionally,

this camera stop and start should be noted in any related reports/logs that operation was ceased so that the violator/suspect/Defendant could consult with their attorney.

VIII. Reporting/Documentation

A. Whenever a BWCS recording is made of an event that results in an incident report, the reporting deputy must note in the report that the recording exists, if known, and if known the name(s) of every deputy who generated a BWCS recording. The deputy responsible for submitting a report of an incident that was recorded utilizing the BWCS will if possible review the BWCS recording(s) prior to completing the report, to insure that the official report corresponds to the information recorded by the BWCS.

B. All BWCS recordings must be downloaded by the deputy during or at the end of his/her assigned shift, or at the earliest opportunity as directed and authorized by his/her supervisor. The deputy will be responsible for properly categorizing and tagging the recording at the time of the download.

C. In a critical incident, such as a deputy involved shooting, in-custody death, or other deputy involved incident that results in death or serious injury, or in a case of suspected serious misconduct a supervisor will immediately take custody of the BWCS as soon as there is no further reason for recording and, in such case, will be responsible for the download.

IX. Internal Access and Use of Recordings

- A. Recordings may be reviewed by:
1. A deputy to make sure the BWCS system is working properly.
 2. A deputy to assist with the writing of a report or other official document.
 3. A deputy to review/critique his/her own performance.
 4. A deputy to review/prepare for court.
 5. The BWCS Manager and his/her assistant.
 6. Sheriff's Office personnel participating in an official investigation, such as a personnel complaint, administrative inquiry, or a criminal or civil investigation.
 7. Authorized personnel to assess

training value.

7. State's Attorney personnel for prosecution purposes.
8. Supervisors as a function of their regular oversight responsibilities.
9. Supervisors are required to review random BWCS recordings at least once per month for each of their subordinates to ensure proper equipment operation and adherence to policy.

B. A deputy responding to a citizen or administrative complaint will be afforded the opportunity to review any BWCS recording of the incident prior to making a statement.

C. A log will be automatically generated by the BWCS provider that will document access to recordings by personnel.

D. Employees will not access, obtain, attempt to access or obtain, or copy/convert for their personal use any recording produced by a BWCS. Employees will not upload BWCS recordings to public or social media sites.

X. Retention of Data/Records Request

A. All BWCS recordings are the property of the Queen Anne's County Office of the Sheriff and will be retained for a minimum of four years to the extent possible within the constraints of the BWCS vendor and their storage capabilities, and in a manner consistent with current and future state law and evidence protocols, unless a specific video has been flagged within departmental policy. All BWCS recordings that are deemed to be of potential evidentiary or training value shall be retained until the Office of the Sheriff receives written notice that they are no longer required. To ensure the proper safekeeping of BWC recordings for proceedings that might require them after the agency four year retention period, copies of the recording(s) shall be made to a storage device such as a flash drive and held as evidence in the agency evidence room.

B. The Sheriff or Undersheriff may authorize the deletion of accidental recordings or recordings that may compromise the

modesty or dignity of a member as long as there is no duty related reason to retain the recording.

C. Employees will not attempt to delete, alter, reuse, modify or tamper with BWCS recordings in any manner.

D. The public release of BWCS recordings will be conducted in accordance with applicable public record laws and current policy.

E. Recordings will not be disseminated by any employee without written permission by the Sheriff or Undersheriff. This section will not preclude the State's Attorney from obtaining recordings for judicial proceedings.

XI. Critical Incident Procedures

A. Critical incidents include any time a deputy or allied officer is seriously injured, use of force is deployed that caused serious injury or death, the discharge of a firearm by a deputy (excluding authorized range practice/training) and allegations of serious misconduct.

B. A supervisor shall immediately take possession of any and all body worn camera(s) that potentially capture a critical incident for video/audio upload into the agency cloud storage. Following the confirmed cloud upload, the BWC may be returned to the deputy.

C. Access to critical incident videos may be restricted as deemed necessary by the Sheriff, Chief Deputy or Senior Commander.

XII. CALEA Reference(s): 41.3.8

XIII. Proponent Unit: Administrative Services

XIV. Cancellation: Policy dated 10/24/19

Sheriff Gary Hofmann