

Body Worn & In Car/Interview Room Camera Systems

Index Code: 503

Effective Date: 11/01/15 (Revised 2/17/2022)

I. Purpose

The purpose of this directive is to establish uniform procedures for the use of the Body Worn Camera System (BWCS), in car and interview room camera systems by sworn employees of the Queen Anne's County Office of the Sheriff.

II. Policy

- A. BWCS, In Car Camera and interview room systems 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.
- B. 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.
- C. BWCS and In Car Camera systems may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.
- D. Only BWCS, In Car Camera and interview room systems and recordings authorized by the Office of the Sheriff may be used.

III. Definition

- A. For purposes of this directive, the Body-Worn Camera System (BWCS) and In Car Camera systems are camera systems that are either 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, or installed into a deputy's agency vehicle by providing capabilities to record video and intercept communications. (Note for the BWCS: Articles of clothing containing the words "Police" alone do not satisfy the "wearing insignia" requirement.)
- B. The agency CIU interview room recording equipment shall upload all recordings to the same recording/storage management system as both the BWCS and the In-Car-Camera systems.

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 (and In Car Camera system) 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 IV (B) 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, in car and interview room cameras are authorized to use the systems.
- B. The Chief Deputy shall designate a commander to oversee the BWCS, In Car Camera system, and the CIU Interview Room Recording Device as its program manager. That commander should designate a subordinate as their assistant.
- C. The CIU Supervisor shall be the primary contact for the CIU Interview Room Recording system and be familiar with its operation.
- D. Prior to going into service at the beginning of each shift, deputies will perform an inspection of the BWCS and In Car Cameras in accordance with their training to ensure that the BWCS and the In Car Camera system is operating properly. If there is a malfunction of the BWCS and or the In Car Camera system, 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 and or county email. The on-duty supervisor shall assure that the BWCS and In Car Camera system manager is informed of the malfunction for appropriate resolution.
- E. Deputies will wear their BWCS and operate their In Car Camera system in the manner consistent with their training at all times and with the power on (BWCS) in standby mode.
- F. Deputies are only authorized to use BWCS or In Car Camera system while in uniform or when prominently displaying the deputy's badge or other insignia.
- G. Regarding secondary employment, if the deputy is authorized or required to wear their uniform or prominently display their QASO badge or other insignia, and or use their agency marked vehicle for the secondary employment, both the BWCS and In Car Camera system must be utilized and their QASO badge or other insignia must be displayed.
- H. Deputies will only wear and operate a BWCS or In Car Camera system issued by the Queen Anne's County Office of the Sheriff.

VI. Activation of the Body Worn (BWCS) and In Car Camera Systems

- A. Deputies will only activate the BWCS and In Car Camera systems 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 or operating a BWCS and In Car Camera system will activate the devices as soon as possible (unless it is unsafe, impractical, or impossible) when their vehicle's emergency equipment is activated, which shall occur upon immediate activation in vehicles assigned with an In Car Camera System. In cases when the vehicle's emergency equipment has not been activated such as due to a cold response, the BWCS and In Car Camera system 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 BWCS or In Car Camera system), however an automatic recording will occur which should be tagged as an equipment test.
- D. When the in-car camera system is activated and if deputies wearing their Body Worn Cameras are within 20-30 feet of that in-car camera activation, all cameras within that distance may potentially be activated. This may also occur if the ECD Device is activated.
- E. If the Deputy is not involved in a law enforcement activity upon activation, the deputy should tag the video as accidental.
- F. Deputies have the capability of tagging and categorizing accidental recordings directly from their Body Worn Camera in the field. They must do so immediately or manually tag and categorize the accidental video.
- G. The BWCS and In Car Camera system 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. Custodial transports.
- H. Once the BWCS and In Car Camera systems have 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.
- I. Whenever the BWCS and In Car Camera equipment are utilized for a law enforcement related incident/matter and are deactivated by the deputy prior to the conclusion of the incident/matter, the deputy must record on camera a brief verbal explanation for the deactivation prior to deactivating the recording.
- J. There may be instances in which deputies are required to take immediate action which may not allow time to activate their BWCS or In Car Camera 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 and In Car Camera system 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 and In Car Camera system.

- J. 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 and or the In Car Camera system during the interview. However, the deputy must document this deactivation and the reason for it.
- K. Supervisory personnel may mute the sound on their BWCS when involved in personnel matters or with members of the public if, in their best judgement, the presence of the BWCS or In Car Camera system will inhibit positive communication. The reasoning for the deactivation of the BWCS and In Car Camera system shall be documented.
- L. Deputies are required to obtain consent prior to a BWCS and In Car Camera system 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.
- M. A pre-record buffer is included with the BWCS and In Car Cameras which will record a period of time (60 seconds) of video prior to activation.
- N. Body worn and/or in car camera systems will have, to the extent possible, automatic activation triggers such as speed, gun shot, Taser, and proximity activations. If activation is accidental and unnecessary, the video should be tagged and categorized as an accidental recording as stated within this policy under Section VI (F).

VII. Prohibited Use

- A. A BWCS or In Car Camera system 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 and In Car Camera system will not be used to create recordings of strip searches.
- C. A BWCS and In Car Camera system will not be used to surreptitiously record conversations of citizens and employees.
- D. BWCS, In Car Camera and interview room systems will not be intentionally activated to record conversations of fellow law enforcement personnel 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. Anytime 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 and In Car Camera system 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 and In Car Camera system recording is made of an event that results in an incident report, the reporting deputy must note in the report that the recordings exist, if known, and, if known, the name(s) of every deputy who generated a BWCS and In Car Camera system recording. The deputy responsible for submitting a report of an incident that was recorded utilizing the BWCS and In Car Camera system will, if possible, review the BWCS and In Car Camera system recording(s) prior to completing the report to insure that the official report corresponds to the information recorded by the BWCS and the In Car Camera system.
- B. All BWCS and In Car Camera system 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 either immediately take custody of the BWCS as soon as there is no further reason for recording and, in such a case, will be responsible for the download or the supervisor will perform in the field a priority evidence upload directly from the deputy's body worn camera. The Supervisor will also ensure that all relevant In Car Camera system videos are downloaded at that time as well. These priority uploads should be documented appropriately by the supervisor. If that supervisor deems the incident to be critical enough to require that no further viewing of the recordings should be allowed, that supervisor will take appropriate action to prevent those viewings.

IX. Internal Access and Use of Recordings

- A. Recordings may be reviewed by:
 - 1. A deputy to make sure the BWCS and In Car Camera systems are 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/In Car Camera system Administrator, Evidence Manager and or his/her designee.
 - 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
 - 8. State's Attorney personnel for prosecution purposes.
 - 9. Supervisors are required to review random BWCS and In Car Camera system recordings at least once per month for each of their subordinates to ensure proper equipment operation and adherence to policy. Supervisors are required to complete and submit the required Camera Review Report via their chain of command.
 - 10. Any authorized internal investigator. If the investigator is from another agency, a formal request form must be submitted to the Sheriff, Chief Deputy or their designee for their approval prior to the release of any BWCS, in-car or interview room camera system recordings.
- B. A deputy responding to a citizen or administrative complaint will be afforded the opportunity to review any BWCS and In Car Camera system recording of the incident prior to making a statement.

- C. A log will be automatically generated by the BWCS, in car and interview room camera systems 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, in car and/or interview room camera systems. Employees will not upload BWCS, in car and/or interview room camera systems recordings to public or social media sites.

X. Retention of Data/Records Request

- A. All BWCS, in car and interview room camera systems 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, in car and interview room camera systems 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, in car and interview room camera systems 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 BWCS, in car and interview room camera systems 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 Chief Deputy 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, in car and interview room camera systems recordings in any manner unless specifically authorized by this policy.
- D. The public release of BWCS, in car and interview room camera systems 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 Chief Deputy. 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 either take possession of any and all body worn camera(s) or perform an on scene priority upload, and or ensure download of all In Car Camera system videos that potentially capture a critical incident for video/audio upload into the agency cloud storage. Following the confirmed cloud upload, the BWCS may be returned to the deputy. These priority uploads should be documented appropriately by the supervisor.
- C. Access to critical incident videos may be restricted as deemed necessary by the Sheriff, Chief Deputy or Senior Commander.

XII. Body Worn, In-Car, & Interview Room Recordings Redaction Guidelines:

- A. Prior to releasing a video recording to a member of the public/media, it may be necessary to redact certain portions of the recording/video:

1. It is the policy of the Office of the Sheriff for Queen Anne's County to, as far as legally possible, respect and safeguard the privacy and confidentiality of any victim, witness, and/or any non-involved bystander who has been recorded by an agency employee during an incident;
2. Any parts of a video recording that may compromise an investigation or unnecessarily infringe on an individual's privacy rights shall be redacted per agency policies, best practices, and state statutes;
3. Images of minor children/juvenile suspects, victims, witnesses and non-involved by-standers, undercover deputies and confidential informants shall be redacted appropriately within any video recording released to the public or media;
4. Any recording involving nudity/partial nudity, a recording of an individual's medical/mental health care or treatment, bodily injury/death that would shock a reasonable person or other video recorded images that the BWC Manager /Administrator determines to be appropriate for redaction shall be redacted and an explanation of the redaction shall accompany the released video recording:

- a. If a video recording is determined to have been inappropriately redacted, it may be re-copied and released, if still available, at the direction of the Sheriff or his/her designee.

- B. Upon receiving such request, it is the responsibility of the Evidence Manager, or designee, to assess the the video(s) being requested. This will include the time needed to make such redactions in accordance with policy and law.

1. Upon a scrupulous review of the captured footage from the in-car, Body Worn and interview room systems, a fair assement of time needed for redation will be made by the Evidence Manager and/or their designee.
2. Any video or combination of video(s) being requested shall not take more than one (1) manpower hour from staff members to redact specifically prohibited materials and/or audio.
3. Any video or combination of video(s) that exceed this one hour will be sent to a "Third-Party Vendor" for redactions.
4. The agency designated third-party vendor will process redactions in accordance with and in the scope of departmental policy and law.
5. The third-party vendor will assess the footage requested to be redacted and provide a cost to the requestor and Office of the Sheriff for the requested services. (*See Section XV. Third-Party Redaction Process Guidelines*)

NOTE: For further guidance on public and private release guidelines refer to agency policies Index Code(s) 2303 & 2304 Release of Information to the Media and to the Public.

XIII. Pro-Active Release of Recordings:

- A. On a case-by-case basis, the Sheriff or his/her designee may determine whether to proactively release a recording to the media or other individuals. This decision will be made after considering:
1. Whether the footage to be released will be used in a criminal court case and the potential effect(s) of releasing the video recording may have on a case; and
 2. The potential public good that the release would have; and
 3. Video recordings will only be released for lawful purposes.

XIV. Release of Recordings for Commercial Gain:

- A. Agency recordings will not be released by the Office of the Sheriff for Queen Anne's County for commercial gain.

Exception: The Sheriff or his/her designee may authorize a third-party recording vendor to use a specific recording for a demonstration as part of its promotional campaign, which shall be done in writing and with approval.

- B. At no time will a third-party recording vendor be authorized to release any video recording made by a member of the Office of the Sheriff for Queen Anne's County or stored in the vendor cloud storage retention files for any purpose without the explicit written authorization of the Sheriff or his/her designee.

XV. Third Party Redaction Process/Guidelines:

- A. When the agency receives video requests for copies, access, and or viewing the agency will evaluate each request on its own merit and take into consideration the following:
 - 1. The number of videos requested for review;
 - 2. The availability of manpower to timely, lawfully and thoroughly redact the requested videos;
 - 3. The amount of hours required to properly redact the requested videos.
- B. It is the policy of the Office of the Sheriff for Queen Anne's County that any video request requiring redaction for more than one hour will automatically be provided to an outside redaction vendor to complete the redaction process. This is to ensure the redaction meets proper time requirements that may be imposed by court authorized subpoenas and or to supplement manpower not available.
- C. When the Office of the Sheriff for Queen Anne's County receives a recording request for any copies of video under the Maryland Public Information Act, (a court authorized subpoena or any other lawful request for video recordings), the evidence manager shall contact the recording vendor and provide the necessary information for the redaction vendor to accurately provide a price quote for the work being requested.
- D. The redaction vendor shall then provide the agency an invoice covering the costs of the redaction of the videos requested which shall then be provided to the requestor for the copy(s) of the recording(s). Once confirmation is received from the requestor to proceed with redaction, the requestor shall make proper and full payment directly to the third-party redaction vendor to produce the copies requested. The evidence manager shall contact the redaction vendor confirming that this transaction has been successfully satisfied.
- E. The redaction vendor will perform the requested work and upon completion will inform the evidence manager/agency. A quality control review will occur by the agency of the recordings redacted for compliance with existing statutes and policies. Once confirmed that final payment was provided to the redaction vendor, the evidence manager will contact the requestor to inform them that the redaction is complete and videos will be lawfully disseminated to the requestor upon the Sheriff's or his/her designee's approval.

- F. All video recordings provided to any outside agency, person or requestor will be provided the appropriate agency forms by the evidence manager showing the videos are true test certified copies taken directly from the video server.
- G. Employees of the Office of the Sheriff for Queen Anne's County who accidentally record themselves in a compromising position may request through their chain of command to have a portion of a video recording redacted or, in the case of an accidental recording, can request for the entire recording to be deleted. Only the Sheriff or Chief Deputy have this authority. Once authority has been received, the affected employee shall fill out, complete and submit an agency **Body Camera Video Disposal/Redaction Form**. Once completed, this form shall be provided to the evidence manager for disposition on the video.

XVI. Release of Videos to the Office of the Attorney General Independent Investigations Division (IID):

- A. The Office of the Attorney General, in coordination with the Maryland State Police, have formed, per statute, an IID unit. This unit is responsible for investigating all statewide alleged or potential officer involved deaths or serious injury of civilians resulting from an action or an omission of a law enforcement officer while they are on duty and/or off duty while performing activities that are within the scope of the officer's law enforcement duties.
- B. As a result of this new investigative body, there will be situations where video recordings must be released to the IID unit. The evidence manager will maintain constant communication with the assigned IID investigator and/or on-call investigator to determine that proper redaction protocols are adhered to as the IID unit is responsible for their own release of the videos to the public.
- C. Notification should be made to the on-call IID investigator to discuss the redaction protocols at (410) 576-7070.
- D. Once video release has been made to the IID Unit and out of the agency's control, the Office of the Sheriff for Queen Anne's County shall not be responsible for further dissemination of the provided video recordings.

XVII. CALEA Reference(s): 41.3.8

XVIII. Proponent Unit: Administrative Services

XIX. Cancellation: Policy dated 11/30/21

Sheriff Gary Hofmann