

Body Worn Cameras

STANDARD NO(S)

DATE:

REFER TO:

1. OBJECTIVE:

To provide policy and procedures for use of the body worn cameras, including both audio and video recordings of field activity in the course of official Sheriff's Office duties.

The use of the body worn camera recording system provides documentary evidence for criminal investigations, internal or administrative investigations, and civil litigation. Members shall utilize this device in accordance with the provisions in this Manual of Instruction in order to maximize the effectiveness of the audio/video documentation to achieve operational objectives and to ensure evidence integrity.

POLICY: It is the policy of the Ontario County Office of the Sheriff to provide uniformed members and other members designated by the Sheriff with body worn cameras designed to record both audio and video. Body worn cameras shall be used to assist sworn personnel in the performance of their duties by providing a recorded account of an incident. Additionally, to maximize the effectiveness of the body worn cameras and maintain the integrity of evidence as well as related documentation, all personnel assigned these devices shall adhere to the procedures outlined in this policy.

DEFINITIONS:

- A. **“Body-Worn Camera” (BWC)** – a small video camera, typically attached to an officer's clothing that maximizes the camera's ability to capture video and audio data of the officer's law enforcement related activities.
- B. **“Agency Administrator”** – The Sheriff's Office Administrator has full access to the rights within the data storage system. He or she can assign the track equipment, control passwords, oversee needed repairs, delete non-evidentiary recordings, conduct audits and quality control reviews, and act as a liaison with BWC representatives. Per the Sheriff, the Chief Deputy will be designated the Agency Administrator.
- C. **“Enforcement Related Activity”** – Situations during a member's official duties that include any and all interactions with the public that are enforcement related.

PROCEDURE:

I. Devices

- A. Body worn cameras shall be worn by members in a manner that maximizes the camera's ability to capture video footage of the member's activities.
- B. Members shall only use BWCs issued and approved by the Sheriff.
- C. All members who will use or otherwise be involved with BWCs shall receive training to include, but not limited to; attachments; activation; deactivation; upload procedures; proper maintenance; and the general order on BWCs.

II. Recording

- A. When to activate the body-worn camera:
 - 1. Buffering Mode – a BWC continuously records audio and video in 30 second loops whenever the camera is in the “on” position. When the member activates the event button, the BWC saves the buffering audio and video.
 - 2. Members will activate their BWC by pressing the event button two (2) times upon engaging in an enforcement related activity that occurs while the member is on duty. Members may refrain from activating the BWC if member, or another person, is involved in an unforeseen hazardous situation and activating BWC is impractical.
 - 3. Members should document in all reports, the presence of video captured by the BWC during the course of any enforcement related activity.
 - 4. For the first thirty (30) days following a member's receipt of his or her BWC, any failure to comply with the requirements of the BWC policy shall be addressed by additional training.
- B. Discretionary Recordings
 - 1. Members shall have the discretion to continue to record or not in situations where a legitimate law enforcement interest outweighs an individual's privacy, to include use of the BWC for audio only recording should the event require.

Situations to include, but not limited to:

- a. A potential witness who requests to speak to an officer confidentially or desires anonymity.
- b. A victim or witness who requests that he/she not be recorded (audio or video) and the situation is non-confrontational.
- c. A victim who requests that he/she not be recorded as a condition of cooperation and the interests of justice require such cooperation.

C. Prohibited Use

- 1. Unless using a BWC to record a law enforcement related activity, the BWCs **will not**:
 - a. be used to record personal activity;
 - b. be intentionally activated to record conversations of fellow members without their knowledge during routine, non-enforcement related activities;
 - c. be used to intentionally or willingly record confidential informants, undercover officers, or any other investigation where officers may be performing in an undercover manner;
 - d. be activated in places where a reasonable expectation of privacy exists, such as: locker rooms, dressing rooms or restrooms.
- 2. Furthermore:
 - a. Members will not make copies of any recordings and are prohibited from using a recording device (such as a phone camera or a secondary video camera) to record media captured from the BWC.
 - b. Members will not use any other electronic devices or other means in order to intentionally interfere with the capability of the BWC.
 - c. Members shall not erase, alter, reuse, modify or tamper with any recording. Only the Agency Administrator may erase any previously recorded digital recording.

- d. The posting of BWC footage to any social media site, without written permission from the Sheriff is **PROHIBITED**.
- e. Members will not record conversations with any and all law enforcement personnel that involve case tactics or strategy.
- f. Members will not allow citizens to review recordings.
- g. Members will turn cameras off when explosive devices are present, because radio waves of the BWC could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.
- h. Members shall power off their BWC when a DataMaster breath test is being administered.

D. Deactivation of Recording

- 1. Officers shall have discretion to terminate the recording when the enforcement related activity has concluded.
- 2. If a BWC has been activated and during the course of enforcement related activity the legitimate law enforcement interest for recording no longer outweighs an individual's privacy, the member shall document either in writing or verbally on camera the reason for the deactivation.

E. Recorded Statements

- 1. Proper documentation shall be made anytime the BWC captures a video statement from a suspect.
- 2. Documentation to include:
 - a. All required agency reports; and
 - b. CPL 710.30 forms, when necessary. Failure to notify the prosecutor of the recorded interview could prevent its use in court.

F. Failure to Record when Legitimate Law Enforcement Interest is Present

- 1. If a member fails to activate, chooses to terminate the BWC recording, or the BWC malfunctions, the member will articulate in a written report:
 - a. Why a recording was not made;

- b. Why recording was interrupted;
 - c. Why recording was terminated.
2. Shift supervisor will review all necessary documentation of a member's failure to record an incident.

III. Critical Incidents and Special Circumstances

- A. Any incident that requires immediate retrieval of digital records, (i.e., investigations pertaining to use of force, in-custody deaths, or any other potential criminal investigation of a member), a supervisor will take immediate possession of the BWC and upload all video regarding the incident.
- B. During the course of a shift, members equipped with BWC may encounter situations where critical incidents or special circumstances are captured on video. Those situations require an immediate response from supervisors and include, but are not limited to, the following:
 1. Member involved shooting;
 2. In-custody deaths;
 3. Member involved traffic crashes with fatalities or serious injuries.
 4. Serious injury or death of a member in the line of duty.
- C. During these circumstances, members equipped with BWC that captured the incident shall continue to record until so instructed by a supervisor.
- D. Device shall remain affixed and attached to the member.
- E. BWC will be removed from the officer after receiving approval from a member of the Administration Staff.
- F. Interviews involving possible disciplinary action will not be recorded under any circumstances.

IV. Assign and Identification

- A. Members shall utilize Evidence.com to identify all recordings with the following:
 1. When applicable, an ID field shall be assigned a case number.
 2. Category field shall be assigned one of the descriptions listed in Evidence.com.

3. Title field may contain a brief description of the incident.
4. Notes field may be used to enter notes/comments pertaining to the incident.

V. Storage and Retention

A. Downloading Procedures

1. Each member must download their BWC at least once during their four (4) day rotation or anytime the BWC storage capacity is nearing its limit. The BWC will be placed into the docking station slot located at the main office or other area designated by the Sheriff or his designee, whichever is more convenient for the member.
 - a. Members should download their BWC whenever there is time during their normal work hours to reduce downloading time.
 - b. If the member cannot download the BWC once during their normal four (4) day rotation due to exigent circumstances, the member shall notify his/her supervisor for approval to wait until his/her next shift.
2. At no time shall any member other than the member issued the BWC touch, handle, or otherwise compromise the body camera. The only exception to this are: Field Training Officers, Shift Supervisors, and members of the Administration Staff.

B. Measures to Prevent Data Tampering

1. All video, audio and data captured by the BWC, irrespective of the content, are at all times the property of the Ontario County Office of Sheriff. Members may not copy, publish, share or disseminate any audio, video, image or data to anyone except as authorized. Furthermore, members may not edit, delete, or alter any video or audio captured by the BWC.
2. The Evidence.com system monitors who accesses recorded data, when and for what purpose. An audit report can be generated with this information.
3. Storage and retention of data shall be the sole responsibility of the Agency Administrator or his or her designee.

C. Retention Schedule

1. The Ontario County Office of the Sheriff shall be in compliance with the minimum standards required by the New York State Archives, which requires law enforcement data captured from a mobile recording device be retained for a minimum of six months, regardless of whether or not the data is evidentiary or non-evidentiary.
 - a. If a determination is made that video data has evidentiary value in an on-going investigation, court proceeding or appeals process, the data shall be retained through the pendency of the case.
 - b. The established retention schedule can be extended beyond six months minimum as necessary.
2. If no extension of video data retention is required, the Agency Administrator may destroy recordings in accordance with the Office's retention procedures.
3. If recording is deemed to be useful as a training tool, the recording may be kept for as long as practicable with the approval of the Sheriff.

VI. Access

A. Permitted Review of Footage

1. Members will be permitted to review BWC footage of any incident in which they were involved for the purpose of:
 - a. Conducting a criminal investigation;
 - b. Preparing for courtroom testimony or courtroom presentation;
 - c. Providing testimony pursuant to an administrative inquiry;
 - d. Assisting the member in professional development;
 - e. Preparing written reports to help ensure the accuracy and consistency of the incident.
2. Road Patrol Sergeants may review recordings created by their subordinates for investigative purposes in response to complaints and training concerns.
3. Sergeants/Investigators may review recordings pertaining to assigned cases.

4. The Lieutenant shall arrange for a copy of the evidence footage to be transferred to the District Attorney's Office or produced as required by law.
5. Prosecutors will be permitted to review video footage as it pertains to their investigations.

SPECIAL NOTE: Any time any member of the Sheriff's Office views BWC footage, they will document under the note in Evidence.com the reason it was viewed.

B. Public Disclosure of Data

1. Any and all disclosures of BWC data must be consistent with the Office record release policy and applicable statutes, regulations, and case law including, but not limited to, law applicable to evidence discovery and disclosure, such as the Criminal Procedure Law and the Civil Practice Law and the Rules, the Freedom of Information Law (FOIL), and the Public Employees' Fair Employment Act. Any requests for such data must be reviewed by the County Attorney.
2. When the BWC data is disseminated outside of the agency, the Agency Administrator shall document the reason and identify the requesting person and/or agency and the rationale used for determining why or why not data is released. This written documentation will be forwarded to the Sheriff for final determination.
3. Civilians shall not be allowed to review the recordings at any scene.

C. Unauthorized Use

1. Unauthorized access or release of data is prohibited outside the permitted review of footage detailed in Section VI (A).

VII. Maintenance

A. Inspection of Equipment at Start of Shift

1. Members shall inspect and test the BWC prior to the start of each shift in order to verify proper functioning and shall notify their supervisor of any problems.
2. Members should ensure the unit is properly charged before going into service.

B. Device Log and Notification Procedures

1. Documentation shall be maintained by the Agency Administrator identifying which BWC is assigned to each member.
2. The member assigned to the BWC will immediately notify his/her supervising officer if at any time during a member's shift their BWC is not available for use.

C. Equipment Malfunction Procedures

1. When equipment is inoperable a supervisor shall be notified immediately and arrange for such equipment to be exchanged for operable equipment at the earliest convenience.
2. Supervisors will email the Agency Administrator at the end of his or her shift of any equipment malfunctions.

VIII. Administrator Duties:

- A. As the Agency Administrator, the Chief Deputy or his designee, will have oversight of responsibilities to include, but not limited to:
1. Ensuring proper procedures are followed in the downloading, review, release and retention of BWC data;
 2. Conducting periodic reviews of retained video data to ensure it has not been tampered with;
 3. Coordinating maintenance and repairs for the BWC;
 4. Conducting annual review of the policy and procedures contained herein and for making recommendations for any necessary amendments thereto;
 5. Coordinating videos tagged for destruction.
 6. It is not the intent of the Administrator to review BWC data for the sole purpose of searching for misconduct or violations of Department policy.

Appendix A

| <u>Category</u> | <u>Retention Rate</u> |
|--|-----------------------|
| Violation/Traffic Stop/UTT | 2 years |
| Unattended Death/Natural Causes – Released by M.E. at scene | 1 year |
| Training | 2 years |
| Tech Work | Indefinite |
| Subject Management | 10 years |
| Shakedown | 1 year |
| Recorded in Error | 6 months |
| QET Activation | 5 years |
| MVA – Non Fatal or Criminal | 6 years |
| Missing Person | 5 years |
| Misdemeanor Report/Arrest | 10 years |
| Mental Hygiene Transport | 4 years |
| K-9 Incident | 5 years |
| Jail Code (1, Blue, Red) | 2 years |
| Incident/FIF | 4 years |
| Homicide/Crucial Incident or Event | Indefinite |
| High Risk Transport – Without Incident | 3 years |
| General Storage | 1 year |
| Felony Report/Arrest | 25 years |
| Employee Injury | 25 years |
| Domestic Report Only | 4 years |
| Deaths (Fatal MVAs, Suicide, etc.) | 25 years |
| Death During Police Encounter (Use of Deadly Force, Fatal MVA, In Custody Death) | Indefinite |
| Critical Incident/Major Event/Serious Physical Injury | 25 years |
| Cell Block/Unit Disruption/Refusal to Lock In | 6 years |
| Civilian/Inmate Complaint | 4 years |

* - Extend Retention Period: Any category can be extended within the system without changing the category (i.e., Missing Persons). The extension can only be removed by an Administer.

MEMORANDUM OF UNDERSTANDING

BETWEEN

ONTARIO COUNTY AND THE ONTARIO COUNTY SHERIFF AND

THE ONTARIO COUNTY POLICE BENEVOLENT ASSOCIATION (PBA)

AND THE ONTARIO COUNTY LIEUTENANTS POLICE BENEVOLENT ASSOCIATION

PARTIES:

Ontario County; the Ontario County Sheriff; the Ontario County Police Benevolent Association (PBA); the Ontario County Lieutenants Police Benevolent Association; (collectively referred to herein as “the parties”)

TEXT OF MEMORANDUM

1. The Ontario County Sheriff wishes to implement a body worn camera program applicable to uniformed members and other members designated by the Sheriff.
2. In furtherance of that program, the Sheriff has developed a policy and procedures for use of body worn cameras, including both audio and video recordings of field activity in the course of official Sheriff’s Office duties (“Body Worn Camera Policy”). Said policy, which is attached hereto, shall be included in the Ontario County Sheriff’s Office Manual of Instruction.
3. The parties hereby acknowledge and confirm their understanding that any provisions in the Body Worn Camera Policy which may affect terms and conditions of employment of PBA unit members have been fully negotiated by the parties, and the parties are in agreement with regard to any such provisions.

IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS MEMORANDUM REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFOR, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

Dated: _____

Kevin M. Henderson, Ontario County Sheriff

Dated: _____

Brian Young, Interim Ontario County Administrator

Dated: _____

Everett E. Roach, President of Ontario County Police Benevolent Association

Dated: _____

Tate Colburn, President of Ontario County Lieutenants Police Benevolent Association