



Policy & Procedure Chapter 105

Body Worn Video Recorders

Effective Date: 1/1/2017

Revised Date: 5/8/2017

Accreditation Standards:

105.0 **BODY WORN VIDEO RECORDERS**

105.1 **Purpose:** The purpose of this policy is to direct deputies and supervisors in the proper use and maintenance of **Body Worn Video Recorders (BWV)** as well as directing how video will be utilized as a quality control mechanism and evidence.

105.2 **Policy:** The policy of this Department/Office is to provide deputies 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 documented video evidence that may be helpful in the investigation of alleged criminal activity and allegations of deputy misconduct that may result in civil litigation. However, videos may not always provide a complete representation of an event. Therefore, further investigation of the event may be warranted. Deputies assigned the use of 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. The BWV system may also serve to improve the accuracy of deputies' reports and testimony in court.

105.3 **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 or administrative 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 shall ensure that the unit is charged prior to the beginning of their shift or special event. In the event that the equipment is found to be functioning improperly, deputies shall immediately report the problem to their immediate supervisor so that the information can be documented, and arrangements made for repair.
- B.** 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 as shown or demonstrated in training. 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. Deputies are authorized to utilize body worn video recorders during law enforcement events when the deputy is a party to the conversation.
1. It is the policy of this agency to record with audio and video the following incidents:
- 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. Department canine use
- viii. Issuance of written violations

- ix. Arriving at law enforcement events and/or citizen contacts initiated by other deputies or law enforcement officers
 - x. Other incidents that the deputy reasonably believes should be recorded for law enforcement purposes.
- C.** 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, s/he will make a verbal statement of his/her intent to stop the recording and the reason.
- D.** At the conclusion of an incident wherein a BWV was utilized, the deputy shall “tag” the incident to assist in its possible future retrieval and to assist in management of its storage. “Tagging” is the categorization of an event by the recording deputy. “Tagging” is done on the mobile data computer at the conclusion of an event. “Tagging” helps determine the length of time a video will be maintained based on the retention schedule.
- E.** When “tagging” a video, the deputy should consider whether the primary purpose of the recording was for evidentiary or non-evidentiary purposes. Evidentiary purposes include circumstances where the deputy knows, or has reason to know, that the video contains material information that would tend to prove or disprove a fact in a subsequent judicial or administrative proceeding, including exculpatory information. Video of an arrest would be an example of evidentiary purpose.
- F.** 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 immediate supervisor that the event was not recorded and document the failure to record on the appropriate form, the BWV failure to record form. The failure to record form shall be forwarded through the chain of command.

105.4 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 or locker room, except during an active incident.

- B.** For safety and confidentiality reasons, encounters with undercover contacts or confidential informants should not be recorded.
- C.** Undercover contacts or plainclothes contacts 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 law enforcement activities authorized by law or court order, including consensual citizen encounters and investigation of law violations. Prior to a deputy entering a residence for a non-emergency purpose, the deputy shall notify the citizen that the BWV is recording. The citizen may request that any recording be stopped. The deputy should comply except in the event of an active incident.
- E.** The purposeful-intentional activation of BWVs during personal conversations between deputies and between deputies and supervisors involving counseling, guidance sessions, or personnel evaluations is prohibited by this policy unless all parties present agree to be recorded.
- F.** Deputies may de-activate the BWV when consulting another individual, including but not limited to, other law enforcement officers, supervisors, legal advisors, EMS or dispatchers, regarding the event. However, the deputy will remove him/herself from the immediate scene to the extent practicable and also make a verbal statement of his/her intent and the reason for stopping the recording.
- G.** The BWV should not be activated in any medical treatment facility or hospital facility (when confidential information could be recorded) or inside of a building during an active religious ceremony or rite, except during an active incident (e.g. disorderly subject).
- H.** The BWV should not be activated in PSCC or other communications locations unless engaged in an active law enforcement event.
- I.** Video and audio recordings are not intended to be used for biometric technologies, including but not limited to, facial recognition, voice recognition, or photo arrays. Any such use must have prior approval of the Sheriff.

105.5 Video Coordinator Responsibility Media Storage and Management

- 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 make every reasonable attempt to download video and audio files at the end of their work week allowing files to be downloaded over their regular days off. If storage capacity is reached prior to a deputy's regular days off, the body worn video recorders will be downloaded at the end of the shift.
- B.** Non-evidentiary video and audio recordings will be retained on the designated storage location for thirty (30) days, after their creation. The system will then designate the video/audio for automatic deletion after an additional thirty (30) days.
- C.** Evidentiary video and audio recordings will be retained for a minimum period of time as listed below. The system will then designate the audio/video for automatic deletion after an additional thirty (30) days.
 - 1. Eighty (80) years:
 - Felony Arrests/Reports/Investigations
 - Domestic Violence Arrests/Reports/Investigations
 - 2. Ten (10) years:
 - Misdemeanor Arrests/Reports
 - Ordinance and Non-Traffic Violations
 - Non-Criminal Death Investigations
 - Motor Vehicle Collisions with Injuries, Possible Injuries or Fatality(s)
 - 3. Up to Five (5) Years per KRS 189A.100(2)(f):
 - DUI Arrests/Investigations
 - 4. Three (3) Years:
 - Motor Vehicle Collision with No Injuries

5. Two (2) Years:

Traffic Stops with a Citation Issued

6. Thirty (30) Days:

Traffic Stops with no Citation Issued
All Other Recordings

- D.** This media will be subject to the same restrictions and chain of evidence safeguards as detailed in the agency evidence control procedures.
- E.** The Video Coordinator shall be responsible to make copies as needed by deputies for court purposes. Requests shall be made on the appropriate form with a minimum seven (7) day notice.
- F.** The Video Coordinator will be responsible to make copies as needed by private attorneys for court purposes. Requests will be made on the appropriate form, the BWV request form, with a minimum seven (7) day notice.
- G.** Media will be released to another criminal justice agency for trial or other reasons by having a duplicate copy made. Requests shall be made on the appropriate form with a minimum seven (7) day notice. All recording 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.
- H.** 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 Video Coordinator.
- I.** Unauthorized and/or malicious destruction, editing, or deletion of video and audio files is prohibited.
- J.** All digital video and audio files are subject to open records requests as permitted 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. Video files may be open to review by an individual prior to filing an administrative complaint with the department, as permitted by Kentucky law.
- K.** Digital media from the BWV shall be stored on a secured server with access limited to supervisory personnel designated by the Sheriff. A non-supervisor deputy only has access to a recording that s/he has stored.

- L. At least once every sixty (60) day period, supervisors should review a taped event of each deputy, including the access history. The supervisor will document this review under the deputy's name on the department BWV supervisor review worksheet.
- M. 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 safety concerns, demeanor, policy issues or legal issues related to the event, as well as any other supervisory observation relative to performance. Results of the review should be documented on the monthly inspection.
- N. In cases of infractions, the reviewing supervisor shall determine proper disciplinary or corrective action.
- O. The video coordinator shall quarterly audit the history of a random sample of recordings for any unauthorized access or improper purpose. The summary of that audit shall be submitted to the Sheriff.

105.6

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

- A. When a deputy makes a recording of any action covered by this policy and a citation is issued or an arrest is made, the deputy shall note on the uniform citation that a video has been made. Unless otherwise prohibited (see section 105.7, Special Considerations) video may be viewed by the deputy for report documentation and preparation for prosecution.
- B. When a copy of a video is needed by a deputy for a court proceeding, a written request on the designated BWV request form shall be forwarded to the video coordinator to allow for its production.
- C. Where there is any indication that the BWV may contain "*Brady*" or exculpatory material, that recording must be saved and turned over to the prosecutor assigned to the case.
- D. Only the Sheriff, appropriate Sheriff's Office personnel not otherwise prohibited herein, and appropriate prosecutorial authorities shall be allowed to review recordings except as: approved by the Sheriff or their designee; through the process of judicial evidentiary discovery; through court order; and/or by proper open records request pursuant to Kentucky law. The

Department/Office reserves the right to deny any open records request as permitted or required by Kentucky law.

105.7 Special Considerations

- A. Recording in Schools and/or Educational Facilities:** BWV should only be activated or limited to when deputies are responding to criminal complaints/activity; or violations of school policy as limited by federal Family Educational Rights and Privacy Act (FERPA) guidelines. (NOTE: No release to or viewing by outside entities of this video shall be made unless authorized by a judicial order).
- B. Recording of Critical Incidents:** If a deputy is involved in a critical incident, deputy involved shooting, response to resistance resulting in injury or where allegations of serious wrongdoing are made, the Department reserves the right to limit or restrict a deputy from viewing a video and the BWV device may be seized by a supervisor.
- C. Improper Viewing of Recordings:** At no time shall BWV recordings be utilized as a source of entertainment or be viewed for any reasons not official.
- D. DUI Video Recordings:** Recordings of a pursuit, traffic stop, or field sobriety tests for a violation of KRS 189A.010 are to be used for official purposes only (KRS 189A.100).
- E. Supervisory Oversight:** Circumstances may occur where the prolonged recording of an event would provide limited or no benefit to the stated purpose of this policy. These include, but are not limited to, extended, stationary traffic details, community events such as festivals, fairs, and sporting events and other similar, off-duty details. The activation of the BWV during these types of events is not required except in the specific event of an incident as indicated in section 105.3 above. A deputy may otherwise request permission from a supervisor for permission to not have the BWV activated during an event, except in the specific event of an incident as indicated in section 105.3 above.