

# BODY WORN CAMERAS

## **I. PURPOSE:**

A. The following provisions are intended to provide Santa Fe County Sheriff's Deputies with instructions on when and how to use body worn camera equipment (BWC) to ensure reliable recording of enforcement and investigative contacts with the public. "Deputies," as referenced below in this policy, include all sworn law enforcement personnel. The Santa Fe County Sheriff's Office has adopted the use of BWC to:

1. Collect evidence for use in criminal investigations and prosecutions;
2. Deter criminal activity and uncooperative behavior during deputy-public interactions;
3. Assist deputies with completing reports and providing testimony in court;
4. Promote accountability;
5. Assist in resolving complaints against deputies; and
6. Provide additional information for deputy evaluation, training, and continuous improvement.

B. BWC video provides additional information regarding an investigative or enforcement contact with a member of the public. BWC recordings, however, provide a limited perspective of the encounter and must be considered with all other available evidence, such as witness statements, deputy interviews, forensic analysis and documentary evidence, when evaluating the appropriateness of a deputy's actions.

## **II. POLICY:**

It is the policy of the Sheriff's Office to use body-worn cameras (BWC) to further the mission of the Office, promote public trust, and enhance service to the community by accurately documenting events, actions, conditions, and statements made during citizen encounters. This policy does not govern the use of surreptitious recording devices used in undercover operations.

## **III. DEFINITIONS**

"Body-worn camera" means an electronic device worn on a person's body that records both audio and video data. "Body-worn camera" does not include a dashboard mounted camera or a camera intended to record clandestine investigation activities.

"Law enforcement encounter" means:

- a. An enforcement stop;
- b. A dispatched call;
- c. A field interrogation or interview;
- d. Use of force;
- e. Execution of a warrant;

- f. A traffic stop, including:
  - a. A traffic violation;
  - b. Stranded motorist assistance; and
  - c. Any crime interdiction stop; or
- g. Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

#### **IV. BODY WORN CAMERA EQUIPMENT**

- A. BWC equipment generally consists of a body-mounted camera with a built-in microphone and a charger. The BWC camera is worn on the outside of a deputy's uniform, facing forward to make video and audio recordings.
- B. BWC video and audio recordings are stored digitally on the BWC camera and can be viewed after uploading files to the server/cloud. A deputy cannot modify, alter, or delete video or audio once recorded by the BWC.
- C. Video evidence management software creates an audit trail each time a file is uploaded, shared or viewed. Audit trails are embedded in each recording and cannot be altered or deleted. It should be noted that in the event a camera has a battery failure or battery dies the system is set up to default to an August 2014 date so the video is preserved. Deputies shall notify the records supervisor via email that the battery malfunctioned or died so the video can be recovered.

#### **V. WHEN ACTIVATION OF BODY WORN CAMERA IS REQUIRED**

**For all mandatory recording incidents identified below:**

- 1) Deputies will activate their BWC's at the beginning of the incident and prior to exiting the patrol car, if possible.
- 2) Deputies may cease recording when they reasonably determine that the incident has concluded, based on information available to them at the time. Deciding when the incident has concluded will depend on the type of incident and individual circumstances, but, typically, the incident has concluded when personnel terminate contact with the individual or they have cleared the scene.
- 3) This policy is intended to achieve a reasonable balance between the benefits of using BWC devices and an individual's reasonable expectation of privacy.
- 4) Although this policy identifies those situations in which activation of the BWC is mandatory, deputies have discretion to manually activate the device any time a deputy believes it would be appropriate or valuable to document an incident. In exercising this discretion, personnel should be aware of, and sensitive to an individual's reasonable privacy expectations. The BWC may only be activated for legitimate law enforcement purposes.

- A. Deputies assisting other personnel will activate their BWC in any investigative or enforcement activity involving a member of the public, whether or not the primary deputy has a BWC.
- B. Deputies who are not involved in direct interactions with witnesses, victims, or suspects and who are performing duties, including but not limited to scene security, supervision, guard duty, or holding a perimeter, shall not be required to record these activities.

## **VI. NON-RECORDING INCIDENTS**

- A. Deputies shall not use BWC to document in these circumstances:
  - 1) Encounters with undercover Deputies or confidential informants, or when conducting undercover operations.
  - 2) Personal activities or private conversations of office personnel that do not involve calls for service or contact with individuals.
  - 3) Conversations between office personnel if parties are unaware that it will be recorded, except in undercover investigations of department personnel involved in alleged criminal conduct.
  - 4) Conversations between office personnel that involve case strategy or tactics.
  - 5) Locations where recording is prohibited by law, unless permission is obtained. The deputy shall document the law prohibiting the recording.
  - 6) Prolonged crime scene investigations, including crash investigations when the scene has been secured and cleared of all non-law enforcement individuals.
  - 7) Court proceedings where a deputy is subpoenaed.
- B. If office personnel inadvertently record any of the encounters listed above in non-recording incidents, they must contact their immediate supervisor and document the incident via memorandum.
- C. Individuals may request that an officer stop recording them. Department personnel shall not stop recording in response to an individual's request if the recording is required by this policy or if the Department personnel deem that continued recording is necessary. If the recording is not mandatory, the Deputy may evaluate the situation and, when appropriate, may honor the individual's request.

- D. The individual's request to stop recording should be documented with the BWC. In the event that it is not reasonably possible to record the individual's request with the BWC, office personnel shall document the request via the CAD system or a report.
- E. During tactical activations, tactical units may turn off their BWCs during planning and decision-making.
- F. Due to the extended duration of tactical activations and in order to conserve battery life, tactical units may turn off their BWCs when not conducting directed action involving public contact, based on the information available to the officer at that time.  
  
BWCs shall be activated during directed action, which may elicit a response from the subject.

#### **VII. INABILITY TO ACTIVATE BODY WORN CAMERA PRIOR TO INITIATING ENFORCEMENT OR INVESTIGATIVE ACTIVITY**

- A. If a deputy is unable to activate his or her BWC prior to initiating any enforcement or investigative activities due to the risk to the safety of a deputy or others, the deputy shall activate the device as soon as it is practical and safe to do so. As in all enforcement and investigative activities including vehicle and pedestrian stops, the safety of the deputies and members of the public are the highest priorities.

#### **VIII. RECORDING OF THE ENTIRE CONTACT**

- A. The BWC shall continue recording until the investigative or enforcement activity involving a member of the public has ended. If enforcement or investigative activity with a member of the public resumes, the deputy shall activate the BWC device and continue recording. Deputies shall announce that recording is being terminated immediately prior to deactivation of the BWC.

#### **IX. DOCUMENTATION REQUIRED FOR FAILING TO ACTIVATE BODY WORN CAMERA OR RECORDING THE DURATION OF THE CONTACT**

- A. If a deputy is unable or fails to activate the BWC prior to initiating an enforcement action or investigative contact, fails to record the entire contact, or interrupts the recording for any reason, the deputy shall set forth the reasons why a recording was not made, was delayed, was interrupted, or was terminated and shall articulate on the BWC recording, in writing or written report.

## **X. CONFIDENTIAL NATURE OF RECORDINGS**

To maintain recording quality, professionalism, and evidential integrity of the BWC video system, the following acts are prohibited by unauthorized personnel:

- A. BWC use is limited to responses for calls for service and enforcement and investigative activities involving members of the public. BWC recordings will capture video and audio evidence for use in criminal investigations, administrative reviews, and other proceedings protected by confidentiality laws and Office policy. Deputies shall comply with all applicable laws and policies regarding confidential information.
- B. Unauthorized use or release of BWC recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded. Therefore, any unauthorized use or release of BWC recordings or other violation of confidentiality laws and office policies are considered serious misconduct and subject to disciplinary action.
- C. Sharing or viewing recordings in an unprofessional or non-work related setting.
- D. Utilizing recordings for personal profit or gain.
- E. Copying recordings for personal use.
- F. Producing or attempting to produce recordings of a non-professional manner.
- G. Manually downloading or obtaining recordings directly from the camera system.

## **XI. PROHIBITION AGAINST MODIFICATION OF RECORDINGS**

- A. Deputies shall not copy, edit, alter, erase, or otherwise modify in any manner BWC recordings except as authorized by law or Office policy. Any violation of this provision is considered serious misconduct and subject to disciplinary action in accordance with Human Resources Rules and Regulations and Departmental Policy.

## **XII. PROHIBITION AGAINST RECORDING PERSONNEL IN NON-ENFORCEMENT OR INVESTIGATIVE SITUATIONS**

- A. BWC shall only be used in conjunction with official law enforcement and investigative activities involving members of the public. BWC recordings shall not be used to record Office personnel during briefings; meetings; roll calls; or while in private spaces such as locker rooms, dressing rooms or restrooms.
- B. Use of BWC to record an administrative investigation without express consent of investigating personnel is strictly prohibited.

## **XIII. OFFICE-ISSUED EQUIPMENT ONLY**

- A. Deputy's assigned BWC equipment shall not use any other non-office issued video equipment, such as personally owned BWC, to record enforcement or investigative activities involving members of the public.

- B. Supervisory personnel, however, may use digital recording devices other than a BWC to record interviews when conducting use of force or personnel complaint investigations.

#### **XIV. PROPERTY OF THE OFFICE**

- A. BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced is the sole property of Santa Fe County and any unauthorized release is strictly prohibited.

#### **XV. TRAINING REQUIREMENTS**

- A. Deputies who are assigned BWC equipment must complete agency approved training in the proper use and maintenance of the devices before deploying to the field.
- B. Training should include the following:
  - 1. All practices and protocols outlined in the BWC Policy;
  - 2. Overview of relevant state laws governing consent, evidence, privacy, and public disclosure;
  - 3. Procedures for operating the equipment safely and effectively;
  - 4. Procedures for uploading and tagging recorded data;
  - 5. Procedures for accessing and reviewing recorded data;
  - 6. Procedures for preparing and presenting digital evidence for court;
  - 7. Procedures for documenting and reporting any malfunctioning device or supporting system.

#### **XVI. TRAINING COORDINATOR'S RESPONSIBILITIES**

- A. The Training Coordinator shall:
  - 1. Verify deputies have been trained on the use and deployment of BWC including this policy; and
  - 2. Document all deputies who have been trained on the use of BWC.

#### **XVII. INSPECTION AND TESTING OF EQUIPMENT**

The BWC equipment is the responsibility of the assigned deputy and will be used with reasonable care to ensure proper functioning and reliability. At the beginning of each shift, deputies shall inspect and test their BWC and make sure it is undamaged and operating properly. This will include date and time management.

## **VIII. DAMAGED, MALFUNCTIONING OR INOPERABLE EQUIPMENT**

- A. If a deputy's BWC malfunctions or is damaged, the deputy shall immediately notify the on-duty supervisor and complete a memorandum documenting the issue.
- B. The deputy shall return the malfunctioning or damaged equipment to the department Quartermaster and obtain a functional BWC as soon as reasonably possible.
- C. If the inoperable BWC contains video of evidentiary value, the deputy shall make arrangements with the agencies computer specialist to have the evidentiary data retrieved.
- D. A backup BWC will be available in each team office.

## **XIX. IDENTIFYING RECORDINGS**

- A. For each incident recorded on a BWC, deputies shall identify the event type and other information using the BWC equipment that best describes the content of the video in accordance with the options available on the recording device.
- B. BWC recordings are not a replacement for written reports or other required documentation such as a CAD summary.

## **XX. STORAGE OF RECORDINGS**

- A. Deputies shall upload all BWC recordings to secure storage by docking the device at the station at the beginning of each shift or prior to going on days off or extended leave. Supervisors may direct deputies to report to the office and download their BWC at any time.

## **XXI. VIEWING OF BODY WORN VIDEO RECORDINGS BY DEPUTIES**

- A. The accuracy of deputy reports, deputy statements, and other official documentation is essential for the proper administration of justice and complying with the agencies obligation to maintain full and complete records of enforcement and investigative activities. Investigators, supervisors, prosecutors, and other officials rely on complete and accurate records to perform their essential duties and responsibilities. Deputies are therefore encouraged to review BWC recordings prior to documenting an incident, arrest, search, interview, use of force, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.

## **XXII. PROCEDURE FOR REVIEWING BODYWORN VIDEO RECORDINGS IN MAJOR USE OF FORCE INCIDENTS**

- A. If a deputy is involved in a major use of force situation, such as a deputy-involved shooting, the deputy shall not review his or her BWC recording until authorized by the

assigned investigator. Once authorized, the deputy shall review his or her BWC recording and any other relevant BWC footage as deemed necessary and appropriate by the assigned investigations supervisor, prior to being interviewed by investigators.

- B. A deputy may have legal counsel present during the review of the BWC recordings without the investigator or supervisor present.
- C. The separating and monitoring of deputies involved in a use of force incident shall be maintained during the review of BWC recordings and a review shall not occur jointly among involved employees.

### **XXIII. SUPERVISORS RESPONSIBILITIES**

- A. Supervisors assigned to any section with BWC-equipped deputies shall:
  - 1. Ensure that deputies assigned BWC equipment have completed Office-required training and are familiar with applicable policies and procedures;
  - 2. Conduct periodic inspections of deputies assigned BWC equipment and ensure that the BWC'S are properly affixed to their uniforms and fully operable;
  - 3. Ensure deputies upload all BWC recordings at the beginning of their shifts; and relevant BWC recordings prior to submitting any administrative reports (e.g. use of force investigations, pursuits, deputy-involved traffic collisions, citizen complaints).
- B. If any of the BWC equipment is found to be defective, the supervisor must ensure that the equipment is removed from service and replaced as soon as reasonably possible.
- C. Refer deputies for investigation who intentionally or repeatedly fail to activate their BWC for contacts required under this policy to be recorded, Intentional or otherwise unjustified failure to activate a BWC, when required by this policy, shall result in discipline.

### **XXIV. RECORDINGS IN USE OF FORCE INCIDENTS - SUPERVISORS RESPONSIBILITIES**

- A. Supervisors investigating use of force incidents shall, when available, allow involved deputies to review their BWC recordings and, if deemed necessary, review other BWC recordings to ensure complete and accurate reports and documentation of the incident.



**XXV. RECORDINGS IN MAJOR USE OF FORCE INCIDENTS - SUPERVISORS RESPONSIBILITIES**

- A. Supervisors must take possession of a deputy's BWC equipment when the deputy is involved in a Use of Force incident resulting in a life-threatening injury or death, ensure the recording has stopped, power off the camera, and maintain custody until transferred to the assigned investigator. Deputies will be issued another BWC prior to the beginning of their next shift.
- B. Supervisors shall not view the BWC recording without express authorization of the Sheriff or assigned investigator.
- C. Assigned investigators, upon arrival at the scene of a major Use of Force incident, shall take possession of any involved deputy's BWC camera and complete the upload process.

**XXVI. COMPUTER SPECIALIST AND QUARTERMASTER – RESPONSIBILITIES**

- 1. Conduct daily inspections of all BWC docking equipment to ensure they are active and in good working condition;
- 2. Inspect and repair any BWC devices returned as inoperative;
- 3. Coordinate the replacement of inoperable, malfunctioning or damaged equipment and/or systems;
- 4. Coordinate warranty service and maintenance through Office-approved vendors;
- 5. Monitor BWC technology and update equipment as needed;
- 6. Conduct forensic reviews of BWC equipment when questions arise (e.g. If a deputy reports he or she was unable to record an incident because the BWC malfunctioned);
- 7. Notify the appropriate supervisor in the event that it appears that BWC equipment has been tampered with; and
- 8. Provide technical assistance

## **XXVII. RELEASE OF BWC RECORDINGS – PUBLIC AND MEDIA REQUESTS**

- A. The release of requested BWC recordings through written public records request will be subject to the same statutory exemptions from disclosure as any other Office records classified under the New Mexico Inspection of Public Records Act (IPRA) or New Mexico state statute.
- B. Requested BWC recordings shall be reviewed in their entirety and any portion prohibited from disclosure under state law shall be redacted before release to the public or media.

## **XXVIII. RETENTION PERIODS**

The Department shall retain and preserve recordings for 120 calendar days. Deleting videos after 120 calendar days does not imply that the department personnel did not record the incident. Recording capturing a use of force, an incident that is the subject of a tort claim or public complaint or lawsuit, shall be stored for minimum of three and a half years from the date of the recording.

## **XXIV. SCOPE AND LIMITATIONS OF TECHNOLOGY**

The camera is a vital tool that serves many purposes (such as evidentiary value, capturing events that are outside the field of the employees view, low light conditions where visibility is limited, etc.). This does not mean the equipment is infallible. Nothing in this policy will constitute a violation if the equipment fails to produce a viable recording (or any recording at all) if the employee followed this policy and the equipment did not record through no fault of their own and there were no signs of malfunction prior to the incident.

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APPROVED: SHERIFF ADAN MENDOZA