

 <p><b>EFFECTIVE DATE</b></p> <p><b>November 18, 2020</b></p> <p><b>Sheriff's Approval:</b></p>	<b>OFFICE OF THE SHERIFF ST. MARY'S COUNTY, MD</b>	
	<b>BODY WORN CAMERAS</b>	
	<b>Policy No.</b> 3.12	
	<b>Section Code:</b> B	
<b>AFFECTS: All Employees</b>		<b>Amends:</b> 9/26/19
		

**3.12 STATEMENT OF PURPOSE**

The purpose of this directive is to establish a procedure regarding the use of Body Worn recorders (BWC) by personnel. The Agency has adopted the use of BWCs for purposes that include, but are not limited to:

- A. Enhancing officer safety;
- B. Collecting evidence; providing a supplement to personal testimony in court by recording actions, conditions, and statements which can be used to aid in the prosecution of those who violate traffic and criminal laws;
- C. Allowing for the viewing of events as they actually occurred and providing corroboration of officers' actions/testimony;
- D. Providing material to be used in performance evaluations; and
- E. Providing an effective aid for training.

**3.12.01 Policy**

The Office of the Sheriff recognizes the benefits of recording events, actions, conditions and statements made during citizen contacts, traffic stops, arrests and other law enforcement related interactions. Body Worn Cameras will be used to accurately document these interactions.

**3.12.02 Definitions**

- A. **Body Worn Camera (BWC)** refers to the digital audio/video recording equipment designed for wear on the outer garment of a law enforcement officer's uniform.
- B. **Recording** means using the BWC to audio and visually capture the event.

- C. **Mute** is a manufacture supplied option which enables the user to temporarily deactivate the audio recording of the BWC. This function, if configured, is not to be used.

### **3.12.03 Training**

Prior to the issuance of any BWC equipment, the deputy sheriff will receive training on its use by a designated BWC instructor. The training will include the basic operation, synching recorded footage to the secure video server and accessing the video server to review recorded video. The training received will be documented via the Blue Team software using the applicable training incident reports.

Supervisors with personnel assigned a BWC will be provided server access (Logon ID and password) and training by a designated BWC trainer on the process to access and review BWC recordings made by personnel under their command. This access is for the purposes of reviewing footage as authorized under 3.12.011 Review, Retention, and Storage of BWC Recordings. The training received will be documented via the Blue Team software using the applicable training incident reports.

### **3.12.04 Responsibilities**

Deputy sheriffs issued a BWC are responsible to ensure the equipment is maintained and operated in accordance with the manufacturer's recommendations.

Only those deputy sheriffs who have received training on the use and deployment of the BWC are authorized to deploy the equipment.

- A. Prior to the beginning of each shift, the deputy sheriff will conduct an operational test of the BWC to ensure it is in operational condition (e.g. camera turns on, properly synchronizes with the in-car video system if so equipped and records). Upon discovering a malfunction, the deputy sheriff will notify their supervisor. The supervisor will remove the BWC from service and it will remain out of service until repaired. Deputies will ensure the BWC is placed on their uniform shirt or MOLLE carrier in a manner to capture the predominate actions and interactions between the deputy and the citizen.
- B. Deputies will not, in any manner, attempt to modify, alter, erase, or tamper with any portion of recorded video. This includes the intentional placement of the BWC device where the focal point of the video is obstructed, or the device is placed in a manner such as to not capture the normal view of activity.
- C. Deputies will note in incident/offense reports when recordings were made during the incident in question. If the incident is one that does

not result in the completion of a field report, the explanation will be documented within the CAD notes. However, BWC recordings are not a replacement for written reports.

- D. If a deputy sheriff fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the deputy sheriff will document why a recording was not made, was interrupted, or was terminated.
- E. It is the responsibility of the deputy sheriff to classify/categorize all BWC recordings prior to offloading video as evidence, non-evidence, or other applicable classifications. Deputy Sheriffs who utilize an Axon BWC will use specific evidence categories (see list in Paragraph F) as opposed to other classifications when applicable. In the event a BWC video is uploaded without a classification or categorization, the deputy sheriff will add the proper classification through authorized storage server access. Deputy Sheriff's will ensure all submitted videos are properly classified within 14 days of recording.
- F. The following BWC classifications are available for Axon BWC Users:

**Evidence Classifications/Examples** (To include when acting as a backup officer)

- **Assault:** To include Domestic Assaults
- **Assist Other Agency:** Used for any incident when assisting allied law enforcement agency, such as MSP, where any report was completed.
- **Burglary**
- **B&E to Motor Vehicle**
- **CDS Violation**
- **Death Investigation**
- **Impaired Driver**
- **Theft**
- **Traffic Stop:** Regardless of outcome (warning or citation)
- **Use of Force:** Used when force is applied by any employee.
- **Vandalism**

**Other Evidence:** Used for any incident where any type of report was completed and does not conform to any of the above classification codes. This includes but is not limited to:

- Peace/Protective order services or investigations for the subsequent violations
- Motor vehicle accidents where an ACRS report is required
- Warrant Services
- Emergency Petitions

### **Non-Evidence Classifications/Examples**

**Non-Evidence:** Used when no report (i.e. Field Reporting, Sheriff's Office Form #56 Offense Report, Automated Crash Reporting System (ACRS), or similar reports for allied agencies such as MSP) has been generated from the call for service. Other examples of non-evidence include but is not limited to:

- Alarms resulting from employee error, weather related, or apparent malfunction
- Motor vehicle accidents not requiring an ACRS report
- Assisting an allied agency, such as MSP, where no report was completed

G. When the deputy sheriff makes a BWC recording while conducting a follow-up investigation, the deputy sheriff will note in the supplemental report the date and time of the follow-up investigation in addition to if a BWC was utilized during the follow-up activity.

H. When the deputy sheriff creates a BWC recording of a call for service that is evidence, but the deputy sheriff is not the primary officer or assisting an allied agency, the deputy sheriff will make the appropriate evidentiary classification. For Axon BWC systems, the deputy sheriff will also note in the title block either the case officer's ID number or indicate it was an allied agency.

### **3.12.05 Authorized Use**

Subject to paragraph C below, all deputy sheriffs to include primary, back up and support deputies on scene, will begin recording with their BWC in the below listed circumstances unless doing so would be unsafe, impossible, or impractical. If unable to begin recording with the BWC due to circumstances making it unsafe, impossible, or impractical to do so, they will begin recording with the BWC at the first reasonable opportunity to do so.

- A. At the initiation of a call for service or other activity that is **investigative in nature** (to include, but not limited to, all protective/peace order services, assisting other agencies, motor vehicle accidents, warrant services, alarms), **or an encounter between the officer and a member of the public that is investigative or enforcement in nature**; and
- B. Any encounter that becomes confrontational after the initial contact.
- C. When victims, witnesses, or other individuals wish to make a statement or share information, but refuse to do so while being recorded, or request that the camera be turned off, deputies may turn off the BWC in order to obtain the statement or information. If the encounter begins when the BWC is not actively recording, the deputy may, but is not required to, temporarily activate the BWC for the sole purpose of documenting the person's refusal or request not to be recorded.
- D. Prior to entering a private residence, or other area where an individual has a reasonable expectation of privacy, without a warrant or in non-exigent circumstances, a deputy sheriff will ask the occupant if the occupant wants the deputy sheriff to discontinue use of the recording.

### **3.12.06 Discretionary Activation**

When not otherwise prohibited by law or agency policy, deputies may begin recording with their BWC in circumstances when they determine that doing so would be beneficial to the public interest.

### **3.12.07 Prohibited Activation**

A Deputy Sheriff will not activate a BWC to record agency personnel during routine administrative activities or during non-work-related personal activity.

### **3.12.08 Notification**

Except as otherwise exempted by law, a deputy sheriff shall notify, as soon as is practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so. This notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.

Deputy sheriffs will carry an informational card which may be used to notify the hearing impaired that their encounter is being recorded.

### **3.12.09 Ending a Recording**

Once recording with a BWC has been initiated, deputies will not end the recording until:

- A. The event or encounter has fully concluded; or
- B. The deputy clears the call and anticipates no further involvement in the event; or
- C. A supervisor has authorized that a recording may cease because the deputy is no longer engaged in a related enforcement or investigative activity; or
- D. When victims, witnesses, protracted or other individuals wish to make a statement or share information, but refuse to do so while being recorded, or request that the camera be turned off, deputies may turn off the BWC in order to obtain the statement or information; or
- E. It is imperative all enforcement or investigative actions are documented on BWC. If the deputy needs to obtain guidance from their superior or another deputy on scene, they will safely separate themselves from any parties. The deputy will then dictate into the camera the reason they are briefly stopping the recording. They may then stop the recording for a brief moment to obtain the required guidance. The deputy shall resume the recording prior to reengaging in any investigative/enforcement actions or in the presence of any parties for the call for service; or
- F. When the deputy is at a medical facility the deputy may temporarily end the recording when not in the presence of any in-custody subject(s) or conducting any enforcement or investigative activity. The deputy will resume the recording prior to being in proximity to any in-custody subject(s) or continuing any enforcement or investigative activity. This is to prevent the unintentional documentation of capturing unrelated citizens' medical treatment or condition.
- G. In all above paragraphs, it is the responsibility of the deputy to re-activate his / her BWC in the event any situation arises which fall under 3.12.005 Authorized Use.

### **3.12.10 Confidentiality**

Only BWC equipment owned and approved by the St. Mary's County Sheriff's Office is authorized for use and all recordings are the property of the agency. Except as authorized by agency policy, copying, releasing, altering, erasing, or allowing unauthorized viewing of an agency video recording (or portion thereof) is prohibited and will subject the deputy sheriff to disciplinary action.

### 3.12.11

#### **Review, Retention, and Storage of BWC Recordings**

- A. At a minimum, one video per quarter will be reviewed by the supervisor of those personnel assigned a BWC to ensure personnel are properly using the system. They will offer constructive criticism to both improve the quality of enforcement techniques and aid in improving officer safety.

Supervisors are authorized to review videos of subordinates in the following circumstances:

1. Performance Review
2. Incident Critique/Use of Force Review
3. Administrative Investigations
4. Quarterly Personnel Audits
5. Training
6. Policy Compliance
7. Maryland Public Information Act (MPIA) Requests
8. For the purpose of Completing Vehicle and Personal Inspection Reports

- B. If a supervisor feels that a video file may be useful as a training tool they will notify their division commander via the chain of command and request that a copy of the video file be forwarded to the division commander. No video file will be used for training purposes while the case is being litigated.

- C. Deputies may review a BWC recording in which they were the recorder by logging onto the client software using their assigned user ID and password from a designated computer access point. Recording deputies are authorized to review their videos in the following instances:

1. Report Writing or completion of other official documents
2. Court Preparation
3. Prior to the completion of a Statement of Charges
4. Field Trainers are authorized to review footage of their trainee while involved in the Field Training Program

If a deputy sheriff is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the sheriff's office reserves the right to limit or restrict a deputy sheriff from viewing the video file. Any limitation or restriction on the deputy Sheriff's ability to view the video file exercised under this section is subject to the requirements of the Law Enforcement Officer's Bill of Rights as a matter of law.

- D. A BWC recording of a constitutionally protected activity may not be used to identify persons present at the activity who are not suspected of being engaged in illegal activity or in need of assistance.

- E. The stored BWC video/audio will not be used to create a database or pool of mugshots nor will it be used as filler in photo arrays.
- F. BWC video/audio will not be searched using facial or voice recognition software.

Note: The prohibition against the use of facial or voice recognition software does not apply when a law enforcement supervisor has reason to believe that a specific suspect or person in need of assistance may be a subject of a particular recording.

- G. To review a BWC recording in which a deputy was not the recorder they must submit a request through the chain of command to their division commander or designee, justifying the need. If approved, the division commander or designee will allow the requesting officer to view the video.
- H. Civilians will not be allowed to review recordings at the scene of an incident. All requests, to review BWC recordings, by civilian personnel or outside agencies, will be submitted in writing to the Office of the Professional Responsibilities. If approved, arrangements will be made for the requestor to view the video file at headquarters. The video file to be reviewed will not be copied by any means nor will it be removed from headquarters.
- I. Only a division commander or designee will be authorized to copy any recordings.
- J. Officers shall be responsible for uploading all recordings to the secure system server at least once per shift. Recordings will be stored, duplicated, distributed or erased only in compliance with this policy. The property section is responsible for the management, storage and security of all copied files placed in their care.
- K. Whenever BWC equipment is reassigned to another operator, prior to the reassignment, the originally assigned deputy will dock the BWC at an authorized upload location and ensure all recordings have been uploaded to the server. In circumstances where the assigned deputy has separated from service, the division commander of the affected deputy sheriff will ensure a supervisor with system access logs into the server with the separated employee's BWC at a designated upload location which will initiate an automatic upload of saved video.

If the upload fails to initiate in either circumstance noted above, the division commander or designee will work with the I.T. liaison to have the video uploaded prior to the BWC being placed back into service.

- L. The Video Server automatically erases recordings not bookmarked for

retention, or marked as non-evidence, when the retention period for a recording segment has reached three hundred and sixty-five (365) days.

- M. All Panasonic BWC recordings are maintained on a secure server maintained by the Department of Emergency Services and Technology (ES&T). Access to the server is managed by Department of ES&T who issues logon ID's and passwords to personnel approved for access by the Sheriff's Office IT Liaison.

Video server access is monitored, and activity is recorded via access logs by the video server software. These logs are secured, managed and maintained by the Department of ES&T.

All Axon BWC recordings are maintained on the Agency's Evidence.com account. All Evidence.com BWC recordings are monitored and all activity related to these recordings is documented via an audit log associated with each video.

- N. Data stored on the video server and held as evidence or any applicable evidentiary classification will continue to be held on the server for a minimum period of five hundred and forty-five (545) days. The server will automatically erase bookmarked recordings on the five hundred and forty-sixth day unless a request has been made to extend the retention period for a specific incident. To request an extension of the retention period for a specific video, the requestor, with approval of their division commander, will contact the IT liaison who will coordinate with the Office of Information and Technology to preserve the video on the server for Panasonic BWC footage. For Axon BWC footage the coordination efforts would be made to the Axon Administrator.

### **3.12.12 Internal Use of Recordings**

- A. The BWC system is not intended to be used as a disciplinary tool against officers for minor infringements of policies or procedures.
- B. Supervisors will not arbitrarily review video/audio recordings for the purpose of identifying minor infractions of department policies or procedures.
- C. However, when cases of misconduct and/or repetitive negative behavior are brought to the attention of the department via supervisor review and/or an official complaint, the video file may be reviewed and be used as the basis for performance counseling or disciplinary action.
- D. The department may use video files for training or other purposes with the approval of the division commander or designee.
- E. BWC video/audio recordings may be used by Field Training Officers

to review the actions of probationary officers participating in the field-training program.

- F. Handling of the recording will be consistent with the practice of handling other items of evidence with respect to chain of custody requirements. In this regard, officers will normally pick up recordings just prior to any legal proceeding, unless viewing of the recording by prosecutors or other authorized persons involved in the case is necessary.

### **3.12.13 Video Data Duplication**

- A. All recordings produced by agency recording equipment are the exclusive property of the St. Mary's County Sheriff's Office. Recordings will only be duplicated for official purposes. Copies of recordings needed for court, training, or other official purposes will be produced by the division commander or designee.
- B. Any person requesting a copy of a recording must sign an agreement stating the copy being obtained is only to be used for the purpose(s) stated in the request. All requests for copies of a recording from anyone other than the involved deputy or an agency supervisory/management authority, will be in writing and directed to the sheriff. This request must be made at least 30 days in advance of the need in order to allow for review, processing and the time needed to create the copy. Any approved request will require a Video Recorder (MVR/BWC) Data Request Form (SMCSO Form #77) be completed by the requestor. The fee for each recording is \$45 per hour after the first two (2) gratis hours, which is waived for intra-agency, allied law enforcement and State's Attorney's Office requests. All original Video Recorder (MVR/BWC) Data Request Forms (SMCSO Form #77) will be maintained in an MVR File by the division commander.
- C. All requests for video made by the States Attorney's Office will be processed by the Patrol Administrative Coordinator. The Administrative Coordinator will be responsible for determining which videos are connected to the criminal case and will provide the videos to the requestor. There will be no requirement to review the video content prior to releasing them.
- D. All intra-agency requests for copies of recordings will be made at least 14 days in advance of the anticipated need. The requesting employee will complete a Mobile Video Recorder (MVR/BWC) Data Request Form (SMCSO Form #77). Requests will normally be submitted by the investigating officer; however other intra-agency personnel with a demonstrated need will be considered.
- E. In exceptional cases, the 14-day advance notice rule may be waived,

expediting a request. The request for such a waiver will be in the form of a memorandum addressed to the assistant sheriff and sent through the chain of command explaining the need for the waiver. The memo will be attached to the Video Recorder (MVR/BWC) Data Request Form (SMCSO Form #77).

- F. Requests for copies by command personnel, or the Office of Professional Responsibilities are exempt from the 14-day advance notice rule.
- G. When the Video Recorder (MVR/BWC) Data Request Form (SMCSO Form #77) is completed, it will be presented to the deputy's division commander or his/her designee. The division commander or designee will be responsible for having the video file copied in a timely manner or provided through the Evidence.com portal. The copy will be immediately submitted to the property section via a property record under the original incident case number.
- H. All physically copied recordings will be picked up in person from property and will be signed for by the person having authority to have the copy made. That person will have responsibility for the security of the recording and will return it to Property as soon as the purpose for which it was requested is served. Generally, this will be upon completion of a court case, or other legal proceeding, where the recording was needed. When picking up and returning BWC footage from evidence, the deputy will ensure the chain of custody portion of the property record is properly completed.
- I. Handling of the recording will be consistent with the practice of handling other items of evidence with respect to chain of custody requirements. In this regard, officers will normally pick up recordings just prior to any legal proceeding, unless viewing of the recording by prosecutors or other authorized persons involved in the case is necessary.
- J. When the State's Attorney's Office completes a request for MVR/BWC video, they will complete MVR/BWC Office of the State's Attorney Data Request (SMCSO Form #77A) which is specific for transmittal of evidence for the State's Attorney's Office. Once the requested videos have been approved, the videos will be provided to the State's Attorney's Office through evidence.com.