



<b>CHAPTER 27: COLLECTION AND PRESERVATION OF EVIDENCE</b>	<b>POLICY # 27.1 BODY WORN VIDEO RECORDING</b>
<p><i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i></p>	
Date Implemented: 04/15/2021	Review Date:

**Purpose**

The purpose of this policy is to direct officers 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.

**Policy**

The policy of this Department is to provide officers with body worn video recording devices to collect evidence to be used in the prosecution of those who violate the law, for officer evaluation and training, and to provide accurate documentation of law enforcement and citizen interaction. The use of a BWV system provides persuasive documentary evidence and helps defend against civil litigation and allegations of officer misconduct. Officers assigned the use of these devices shall adhere to the operational objectives and protocols outlined herein to maximize the effectiveness and utility of the BWV and the integrity of evidence and related video documentation.

**Procedure**

It is the intent of this policy that all officers who will be using BWV equipment shall be trained on the way the BWV shall be tested, maintained, used and how the recorded events will be properly documented and maintained as evidence in future judicial proceedings.

It shall be the responsibility of each individual officer to test the BWV equipment at the beginning of each tour of duty. Officers equipped with the BWV will ensure that the batteries are charged prior to the beginning of their shift or special event.

If the equipment is found to be functioning improperly, the officer shall report the problem immediately to their immediate supervisor so that the information can be documented, and arrangements made for repair.

Uniformed Officers assigned Body Worn Video cameras will wear them at all times while on duty in any type of uniform. BWV will be worn according to manufacturer's specifications and/or recommendations. Officers 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. Officers are authorized to utilize body worn video recorders during law enforcement events when the officer is a party to the conversation.

Officers should activate body cameras when receiving a call for service and prior to arrival at the scene of a self-initiated response: (example) backing up another officer. 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:

- a. Arrest of any person
- b. Searches of any kind
- c. Seizure of any evidence
- d. Request for consent to search
- e. Miranda warnings and response from in custody suspects
- f. Statements made by citizens and suspects
- g. K-9 searches of vehicles
- h. Issuances of Written Violations
- i. Arriving at law enforcement events and/or citizen contacts initiated by other officers
- j. Other incidents the officer reasonably believes should be recorded for law enforcement purposes

The recording shall continue until the law enforcement event or citizen contact is completed and the citizen involved departs or until the officer, 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 an officer deems it necessary to stop recording, he or she will make a verbal statement of their intent to stop the recording and his reason (if it is not clear that the event/contact has ended).

When a BWV recording is being entered into the property and evidence storage and management area of the agency it should be done according to existing agency policy governing the retention of evidence.

If an officer 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 officer shall notify their supervisor that the stop was not recorded and should notify them as to the reasons. The notification to the supervisor shall be in writing and shall be forwarded through the chain of command.

#### **Issues Related to Privacy:**

The BWV should not be activated when the officer is on break or otherwise engaged in personal activities or when the officer is in a location where there is a reasonable expectation of privacy, such as a restroom or locker room.

For safety and confidentiality reasons, encounters with undercover officers or confidential informants should not be recorded.

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.

BWV activation is limited to situations involving official police activities authorized by law or court order, including consensual citizen encounters and investigation of law violations.

The purposeful-intentional activation of BWVs during personal conversations between officers and between officers and supervisors involving counseling, guidance sessions, or personnel evaluations is prohibited by this policy unless all parties present agree to be recorded.

#### **Supervisory Responsibility**

The original digital files from body worn video recorders will be downloaded and stored on a designated storage location to prevent destruction. Officers will make every reasonable attempt to download video and audio files before the end of each shift.

Non-evidentiary video and audio recordings will be maintained on the designated storage location according to KRS and/or the applicable records retention schedule after their creation.

This media will be subject to the same restrictions and chain of evidence safeguards as detailed in the agency evidence control procedures.

Media will be released to another criminal justice agency for trial or other reasons by having a duplicate copy made. 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 agency head or designee.

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 a commanding officer.

Unauthorized and/or malicious destruction, editing, or deletion of video and audio files is prohibited.

All digital video and audio files are subject to open records request as allowed 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.

Digital media from the BWV shall be stored on a secured server with access limited to supervisory personnel designated by the Chief of Police.

At least once every 30-day period, supervisors should review a taped event of each officer. The supervisor will document this review under the officer's name.

Supervisors should use these reviews as a quality control measure. Following such a review, the supervisor will hold a meeting with the officer and provide the officer with either positive reinforcement or constructive criticism with respect to the activity reviewed. Constructive criticism may relate to officer safety issues, demeanor, policy issues or legal issues related to the stop as well as any other supervisory observation relative to performance.

In cases of infractions, the agency head or his/her designee shall determine proper disciplinary or corrective action.

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

When an officer makes a recording of any action covered by this policy and a citation is issued or an arrest is made, the officer shall note on the uniform citation that a video has been made.

Where there is any indication that the BWV may contain "Brady" material, that recording must be saved and turned over to the prosecutor assigned to the case in accordance with the "Duty to Disclose" policy of this department.

Civilians shall not be allowed to review recordings except as: approved by the Chief of Police or their designee; through the process of evidentiary discovery; and/or by proper public records request.

#### **Special Considerations**

Members may be required to turn off their BWV at any hospital or medical facility at the request of the medical staff, unless they are engaging in a law enforcement activity or encounter (e.g. active shooter, unruly patient or visitor, etc.)