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## POLICY

It is the policy of the Douglas County Sheriff's Office (DCSO) to authorize Deputies to utilize DCSO-issued body worn cameras (BWCs) to document evidence for criminal and administrative investigations. This policy does not govern the use of surreptitious recording devices used in undercover operations. (41.3.8a)

## DEFINITIONS

Commander: For purposes of this policy, a Commander refers to Bureau Captains within the Operations Corps, and the Administration Chief Deputy within the Administration Corps.

Extra-Duty Employment: Any secondary employment that is conditioned on the actual or potential use of law enforcement powers or authority by the employee.

## PROCEDURE

### I. Issuance of Body Worn Cameras

- A. BWCs will be issued to DCSO Deputies based on agency operational needs as determined by the Sheriff and Chief Deputies.
- B. Only agency-issued BWCs will be used.
- C. Each video and audio file of BWCs assigned to a specific Deputy, will contain information related to the date of the recording, a BWC equipment identifier, and the individual to whom the equipment was assigned at the time of the recording.
- D. Deputies utilizing a BWC from a shared bank of cameras (e.g., utilizing a replacement camera while their primary camera is being fixed) will log into the BWC system and assign it to their profile prior to utilizing the camera.

### II. Training (41.3.8f)

- A. All BWC users, Supervisors of Deputies assigned BWCs, and any other DCSO member who will come into contact with video or audio data recorded by a BWC will receive training prior to being issued a BWC in an operational setting, being assigned to supervise Deputies who use BWCs, or accessing BWC recorded media (NSS 81-1454).
- B. All BWC users and Supervisors will receive refresher training at least once every four years. Training will be provided sooner if changes to the equipment/technology are made by the manufacturer.

### III. Body-Worn Camera Use (41.3.8a)

- A. BWCs may be used for the following purposes: (41.3.8c)
  - 1. Accurately capturing statements and events during the course of an incident.

2. Improving Deputies' ability to document and review statements and actions for internal reporting requirements and courtroom presentation.
  3. Training.
  4. Capturing visual and audio information for use in investigations (both criminal and administrative).
  5. Assessing the quality of Deputy/citizen contacts through administrative reviews.
- B. Deputies assigned a BWC will activate BWCs any time they believe its use would be appropriate and/or valuable in accordance with their official duties unless it is unsafe or impractical to do so. Such incidents include, but are not limited to: (41.3.8b)
1. Enforcement and investigative encounters where there is a reasonable suspicion the person is involved in criminal activity.
  2. Service of search or arrest warrants.
  3. Service of civil process.
  4. During planned contact with a suspect, with the exception of prisoner transports and court proceedings.
  5. Any citizen/suspect contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
  6. Deputy-involved use of force incidents (see the "Use of Force – Deputy-Involved Incident Investigations" policy).
- C. If it is determined that the BWC will be utilized, Deputies will activate BWCs as follows:
1. Immediately when dispatched to a Priority 1 Call for Service.
  2. During all other calls for service and proactive, non-dispatched law enforcement-related encounters and activities, Deputies will activate the camera prior to arrival or commencing contact as long as activating the BWC does not place the Deputy or others at risk.
    - a. If the immediate activation of the BWC is not possible due to an immediate risk to the safety of the Deputy or others, the Deputy will activate the BWC at the first available opportunity after the immediate threat has been addressed.
- D. Back-up or assisting Deputies assigned a BWC will activate the BWC as detailed in this policy, regardless of whether other Deputies' BWCs are activated or other recording devices are recording an incident. (41.3.8b)
- E. Deputies will wear and use the BWC in accordance with DCSO training. Deputies will position the camera on their person to facilitate optimum recording field of view. If the camera gets moved during an incident, Deputies will reposition it as soon as feasible based on the circumstances of the incident.
- F. Deputies are encouraged to narrate events, in a clearly audible manner, to provide the best documentation for pretrial and courtroom presentation.

G. Restrictions and privacy-related prohibitions when using BWCs: (41.3.8b)

1. Deputies will not utilize BWCs during task force operations unless the applicable Commander receives authorization from the Sheriff or respective Chief Deputy.
2. Deputies will not record non-law-enforcement related conversations with Supervisors.
3. Deputies will not record conversations with fellow members during routine, non-law-enforcement related activities.
4. To respect the dignity of others, Deputies will try to avoid recording videos of persons who are nude, or when sensitive human areas are exposed.

**NOTE:** Deputies will not activate BWCs when performing strip searches.

5. Deputies will not record places where a reasonable expectation of privacy exists, including, but not limited to, any facility, public or private, used as a restroom, tanning booth, locker room, shower room, fitting room, or dressing room, unless present in an official capacity. Deputies will use discretion when such locations must be recorded.
6. Deputies will not record known encounters with undercover officers or confidential informants. Recording during these encounters may create a dangerous situation or otherwise diminish the investigative success of the operation.
7. Deputies will not record while in patient care areas of a medical facility unless the recording is for official law enforcement purposes. Care should be used to record only the parties involved in the event being investigated.
8. Deputies will not play back any portion of recorded events to the public.
9. Deputies will not use their BWCs except when acting in the performance of their official duties.

H. Deactivation/Muting (41.3.8b)

1. During required activations, the recordings will not be intentionally terminated or muted until the conclusion of the incident with the following exceptions:
  - a. Recording should be stopped/muted prior to discussing a case on scene with other Deputies or during on-scene tactical planning. When tactical discussions and planning have concluded and plans are being implemented, the BWC should be reactivated.
  - b. A Supervisor directs the Deputy to stop/mute the recording.

**EXCEPTION:** Only a Commander, Commander's designee, CID, or SID Supervisor investigating the incident has the authority to direct Deputies to stop/mute recording during a Deputy-Involved Incident (see the DCSO "Use of Force – Deputy-Involved Incident Investigations" policy).

- c. A witness or victim refuses to provide a statement if recorded and the incident is non-confrontational.
- d. If, in the Deputy's judgement, a recording would interfere with the Deputy's ability to conduct the investigation, would be inappropriate because of the victim or

witness's physical state, age, or other sensitive circumstances (e.g., victim or rape, incest, or other sexual assault), or would risk the safety of a confidential source/informant, citizen informant, or undercover Deputy.

2. If a Deputy fails to activate the BWC, fails to record the entire contact, interrupts the recording, mutes the recording, or there is mechanical failure of the camera during an incident a Deputy would be expected to record, the Deputy will document why a recording was not made, was interrupted, was muted, or was terminated in the applicable report.
  3. Deputies will not deactivate or mute their BWC at the scene of a Deputy-Involved use of force incident or pursuit unless directed by a Supervisor (see the "Use of Force – Deputy-Involved Incident Investigations" policy and "Pursuits" policy).
  4. Prior to deactivating or muting the BWC, Deputies will verbally announce their intention to deactivate the BWC and/or provide a short explanation in a clearly audible manner.
- I. Deputies will categorize all video to the best of their ability as one of the following categories within the evidence system:
1. Non-Criminal/Admin.
  2. Infraction/Warning.
  3. Misdemeanor.
  4. Civil Process.
  5. Warrant Service.
  6. Felony – Any felony with a statute of limitations up to six years.
  7. Other – Any felony with a statute of limitations greater than six years or any felony that does not have a statute of limitations (e.g., treason, murder, arson, forgery, sexual assault – 1<sup>st</sup> or 2<sup>nd</sup> degree, sexual assault of a child – 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> degree, incest, 3<sup>rd</sup> degree sexual assault of a child under 16, labor or sex trafficking of a minor, child pornography, some sex crimes against a child under 16 years of age, some crimes involving child pornography and human trafficking).

**NOTE:** Proper categorization is critical for adherence to retention requirements.

- J. Deputies will document the use of BWCs in applicable reports and, if applicable, the Case Report number in the BWC evidence system.
- K. Whenever a Deputy records an event or portion of an event that they reasonably believe will lead to a citizen complaint, the Deputy will immediately bring it to the attention of his/her Supervisor.
- L. If a Deputy or Investigator receives notice of a criminal or civil court proceeding in which the recording may have evidentiary value or in which the recording is otherwise involved in accordance with Section VI, G below, the applicable video will be grouped into a case within the evidence system.
1. This will ensure that the applicable video will be retained indefinitely until manually deleted in accordance with Section VI below.

#### IV. Equipment Maintenance and Inspection (41.3.8e)

- A. Deputies assigned a BWC are responsible for the operation, maintenance, and security of the BWC in accordance with the manufacturer's recommendations. Only fully operational BWCs will be used.
  - 1. Deputies will inspect body-worn cameras prior to going into service and ensure the unit is charged and operating properly. This inspection will be documented in CAD.
  - 2. Deputies will immediately report equipment malfunctions/problems to their immediate Supervisor and will note the malfunction in CAD.
  - 3. The Deputy's Supervisor will submit a ticket to TOD notifying TOD of the malfunction.
  - 4. TOD will be responsible for working with the manufacturer to get the equipment repaired or replaced as needed.
- B. Lost, stolen, or damaged equipment will be reported in accordance with the DCSO "Fiscal Management" policy.

#### V. Recording, Duplication, Dissemination, and Review

- A. All BWCs and recorded media (including images and audio recordings) and metadata are the property of the DCSO. Dissemination outside of the agency, with the exception of the County Attorney, City Prosecutor (see Section G below), or authorized task force partners, is strictly prohibited without the specific written authorization of the Sheriff or Sheriff's designee (see the DCSO "Records" policy). Violators will be subject to discipline up to and including termination.
  - 1. Authorized task force partners will only be provided with video recordings of task force operations unless otherwise approved by the Sheriff or respective Chief Deputy.
- B. Members will not erase, alter, reuse, edit, copy, share, modify, or tamper with BWC recordings without prior written authorization of the Sheriff or Sheriff's designee.
- C. Members will not record, download, or otherwise transfer BWC recordings onto any type of personal recording devices, including but not limited to, personal cellular phones, video recorders, tablets, etc.
- D. To prevent damage to or alteration of original recorded media, such media will not be copied, viewed, or otherwise inserted into any unapproved device.
- E. The ability to access and view video within the BWC evidence system will be based upon the rights and assignments set within the system.
- F. Deputies may view their own audio/video data for the following purposes: (41.3.8c)
  - 1. To assist in completing a criminal investigation. (41.3.10b)
  - 2. Preparing official reports. (41.3.10a)  
**NOTE:** BWC recordings are not a replacement for written reports.
  - 3. Prior to courtroom testimony or for courtroom presentation. (41.3.10b)
  - 4. Providing a statement pursuant to an administrative inquiry, including Deputy involved incident investigations. (41.3.10b)

5. For training purposes.
  - a. Recorded audio/visual digital media files that contain material which is believed beneficial for the training of agency members, including recruit trainees may, with the Sheriff's or Sheriff's designee's approval, be utilized for training purposes.

G. Deputies who need to view other Deputies' videos as part of an investigation or to complete reports must receive documented approval via email or Inter-Bureau Communication as follows (41.3.10c):

1. Deputies will receive approval from the Sergeant, Lieutenant, or Commander of the Deputy who recorded the video prior to viewing the video if it was recorded during routine operations.

**EXCEPTION:** Investigators do not need to receive approval to view video that is related to an assigned ongoing criminal or administrative investigation. (41.3.10d)

2. If the video was generated as part of a cross-bureau/division enforcement activity, approval will be received from the Sergeant, Lieutenant, or Commander who was responsible for special enforcement activity.
3. If the video is related to a Deputy-Involved Incident, the Deputy may view the recording in accordance with the DCSO "Use of Force – Deputy-Involved Incident Investigations" policy.
4. The Deputy will document the day, date, time, and individual who authorized access to the video in their report.

G. The Crime Analyst and Supervisors will have the ability to submit video upon request to the County Attorney/City Prosecutor via a video link through the secure evidence system.

## VI. Data Retention and Storage (41.3.8d)

- A. Data captured by the BWCs is the property of the DCSO and will be considered evidence.
  1. Accessing or copying files, or portions thereof, for non-law enforcement purposes is strictly prohibited unless specifically authorized by the Sheriff or Sheriff's designee.
  2. BWC data will only be released in accordance with Section V above.
- B. USB Patrol Deputies and CSB Deputies will ensure that all video and audio recordings are securely downloaded to a designated agency-approved repository no later than the assigned Deputy's end of shift except in exigent circumstances.
- C. All other Deputies will ensure that all video and audio recordings are securely downloaded to a designated agency-approved repository at least once a week, unless on approved leave.
  1. If the Deputy records an event of significant evidentiary value, the video and audio recording will be downloaded no later than the assigned Deputy's end of shift.
- D. Absent unusual circumstances the BWC will not be removed from the charger until the data has been uploaded and the battery has been fully recharged.
- E. The Technical Operations Division (TOD) will periodically monitor the data files to ensure that only authorized users are accessing recordings or data files.

- F. Video will be retained in the evidence system as follows based on the video category:
1. Non-Criminal/Admin: 18 months.
  2. Infraction/Warning: 18 months.
  3. Civil Process: 18 months.
  4. Misdemeanor: 24 months.
  5. Warrant Service: 24 months.
  6. Felony: 6 years.
  7. Other: Video does not have a set deletion period within the system. However, the video in this category will be manually deleted in accordance with the Records Retention and Disposition Schedule 15 (County Sheriffs) and NSS §81-1454. Video related to crimes that do not have a statute of limitations will be retained indefinitely.
- G. If the video is related to a criminal investigation, criminal or civil court proceeding, or disciplinary proceeding it will be retained as follows in accordance with state statute (NSS 81-1454):
1. Upon notice to the agency of a criminal or civil court proceeding in which the recording may have evidentiary value or in which the recording is otherwise involved, the recording shall be retained until final judgement has been entered in the proceeding (see the DCSO "Property and Evidence" policy).
  2. Upon notice to the agency of a disciplinary proceeding against an employee of the agency in which the recording may have evidentiary value or in which the recording is otherwise involved, the recording shall be retained until a final determination has been made in such proceeding (see the DCSO "Administrative Investigation of Complaints" policy).
  3. If the recording is part of a criminal investigation that has not resulted in an arrest or prosecution, the recording will be retained until the investigation is officially cleared, closed, or suspended (see the DCSO "Property and Evidence" policy).
- H. TOD will provide a report on an annual basis that shows the videos retained indefinitely and related cases. The assigned investigators will review the report to determine if the video can be deleted from the system in accordance with the retention requirements above.
- I. BWC data that must be manually deleted will only be deleted upon approval of the assigned investigator's chain of command by TOD. (NSS 81-1454).

## **VII. Extra-Duty Employment Use**

- A. All Deputies will wear a DCSO-issued BWC and body armor during extra-duty employment in uniform (see the DCSO "Secondary Employment" policy).
- B. Deputies will utilize the BWC in accordance with the procedures detailed in this policy with the following exceptions:
1. If utilizing a BWC from a shared bank of cameras, the Deputy will assign the BWC to their profile prior to use.

2. Deputies will notify 911 Dispatch regarding the status of the BWC inspection prior to starting extra-duty employment (see the DCSO “Secondary Employment” policy).
3. If the Deputy records an event of significant evidentiary value during extra-duty employment, the video and audio recording will be downloaded as soon as the Deputy’s extra-duty employment shift has ended at any DCSO-approved repository.
4. If no events of significant evidentiary value were captured, Deputies will download the BWC at the start of their next assigned DCSO work shift.

**VIII. Administrative Reviews of Body-Worn Camera Video (41.3.8c)**

- A. Administrative reviews of body-worn camera data will be conducted to: (41.3.10e)
  1. Ensure equipment is functioning properly.
  2. Ensure the equipment is being properly utilized.
  3. Ensure satisfactory performance including compliance with DCSO, legal, and constitutional requirements.
  4. Identify material that may be appropriate for training.
  5. Assist Supervisors with performance evaluations.
- B. Supervisors of Deputies issued BWCs will review a minimum of two recorded events per Deputy each semi-annual period. If a Deputy has been assigned to a Supervisor for 90 days or less during the semi-annual period, that Deputy will have their review completed during the next semi-annual period. (41.3.10e)
  1. The semi-annual review will be documented on the Audio/Video Data Review Report (SF-244).
  2. If, during a supervisor’s review of a subordinate’s digital media files, a violation of DCSO policy is observed, the supervisor will document such concerns on the Audio/Video Data Review Report.
    - a. Supervisors will ensure corrective action/remedial training is conducted in a timely manner for identified body-worn camera operational issues.
    - b. Supervisors will take immediate measures to address Deputy safety concerns and/or policy violations in accordance with DCSO policies and procedures.
  3. Once completed, the form will be submitted up to the Commander via chain of command for review and signature.
    - a. Supervisors reviewing the completed report will review the report for accuracy and ensure that appropriate follow-up action has been taken to address any identified issues.

**IX. Annual Administrative Review (41.3.10f)**

- A. The following members will conduct an annual administrative review of the Body Worn Camera program:
  1. Operations Chief Deputy.

2. DCSO Captains.
  3. Policy Coordinator.
- B. The administrative review will be based on BWC data available in the system, feedback from TOD, Crime Analyst, and Supervisors. The review will determine if any changes need to be made to training, policy, or operational practices.
  - C. The written review with any recommendations will be forwarded to the Sheriff for review.

**X. Policy Changes**

- A. In the event that this policy is revised or updated, the Sheriff or Sheriff's designee will provide a copy of the updated version of the Nebraska Commission on Law Enforcement and Criminal Justice.

**REFERENCES**

**I. Laws**

- A. Nebraska State Statutes 81-1453 and 81-1454.

**II. Previous DCSO Orders**

- A. Previous General Orders include: #71-2023, #56-2022, #52-2022, #46-2022, #16-2022, #92-2018, #81-2018, #7-2017, #1-2017, #33-2016, #25-2016, #18-2016, #11-2015, and #24-2008.

**III. CALEA Accreditation Standards**

- A. Relevant CALEA standards include: 41.3.8 and 41.3.10.

**IV. Review Schedule**

- A. Quadrennial.