CALEA 41.3.8, 41.3.10

BODY WORN CAMERAS

CHAPTER 508

508 BODY WORN CAMERAS (SCLEA 16.12)

508.1 PURPOSE

The purpose of the policy is to establish guidelines related to the use, management, storage, and retrieval of the audio and video recordings from the Kershaw County Sheriff's Office (KCSO) issued Body Worn Cameras (BWC).

508.2 POLICY

KCSO is committed to the belief that body-worn cameras (BWC) are an important and valuable tool for law enforcement. BWC videos are essentially audio-video documentation of a deputy's investigative and enforcement activities from the perspective of the officer's person. The use of a BWC is expected to result in greater accountability of deputies, transparency, and more effective prosecution.

Audio or video recordings of investigative or enforcement actions are evidence, and subject to rules of disclosure. It is in the best interest of justice that the KCSO issues regulations regarding evidence collection and storage.

508.3 DEFINITIONS

Agency Administrator – EVIDENCE.COM system administrator(s) with full access to user rights End User - AXON user with individual account access right to EVIDENCE.COM

Axon Body 3 – A BWC system currently authorized as the sole means of overt on-officer audio-video recording. Axon Body 3 replaces Axon Body 2 body-worn cameras.

Buffering – Captures activities that occur before the camera is activated while in the On/Ready position.

Docking Station – A device containing a server physically installed at the Sheriff's

Office or Sheriff's Substation. The docking station simultaneously recharges the device while uploading all digitally encrypted data. The docking station then transfers the data to EVIDENCE.COM

EVIDENCE.COM – Online web based digital media storage facility operated by AXON. The virtual warehouse stores digitally encrypted data in a highly secure environment accessible to personnel based on security clearance.

Media or Data – Includes photographs, audio recordings and video footage. The media is stored digitally.

Zulu Time / Coordinated Universal Time (UTC) – The watermark date and time in a 24-hour format (4 hours ahead of Eastern Time) on Axon Body 2 cameras.

508.4 GENERAL PROCEDURES

Officers are only authorized to audio or video record investigative and/or enforcement activities using KCSO assigned equipment and following the procedures established within this order.

Employees shall not intentionally record confidential informants or undercover officers unless the recording is conducted specifically for the purpose of documenting a sting, drug purchase/sale or other undercover operation in furtherance of a criminal investigation.

Whenever an officer believes that a recorded contact may lead to a citizen complaint, he/she should bring the recording to the attention of his/her supervisor as soon as possible. If no crime report or supplementary report is being prepared, details of the contact may be documented via information report or memorandum.

BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not generally be used to record communications with other police personnel without the permission of the Sheriff.

Furthermore, officers should use discretion where there is a victim of rape or sexual assault. Additionally, to respect the dignity of others, unless articulable exigent circumstances exist, officers will try to avoid recording persons who are nude or when sensitive human areas are exposed.

508.5 AXON/EVIDENCE.COM -SPECIFIC PROCEDURES

A body worn camera shall be worn at all times that the officer is in any Sheriff's Office uniform whose primary function is to answer calls and/or interact with the public, or officers who have a reasonable expectation that they will. The camera shall be placed in the ON/READY or buffering position while being worn. (SCLEA 16.12 a)

The camera shall be activated when an officer arrives at a call for service or initiates any other law enforcement or investigative activity between an officer and a member of the public, including, but not limited to: on the scene of all violent crimes; traffic stops; motor vehicle accident investigation when the parties to the motor vehicle accident are present; suspicious persons; public drunk; public disorderly conduct; field contacts; arrests; emotionally disturbed persons; weapons are present or alleged to be present; use of force; and an adversarial contact or a potentially adversarial contact. (SCLEA 16.12 c)

The body worn camera shall be utilized during all investigative or enforcement contacts (i.e.: pedestrian and vehicle stops, consensual encounters, calls for service, on view events).

Once recording, officers shall continue to record until the completion of the event, or they have left the scene (this includes recording of statements).

Officers issued a holster signaling device and body-worn camera must carry both items at all times and have them working properly while on duty. On duty includes, but not limited to, regular scheduled work time, directing traffic, extra duty, and the like.

There is no obligation to obtain consent from victims or witnesses prior to using a body camera to record an incident. At that time the officer will have discretion on whether to keep the BWC on or turn it off. If the officer discontinues the recording, the officer must document the reason for discontinuation either on the BWC or in a written report.

Additional arriving units to a scene shall place their body worn camera in record mode as soon as practical, and continue to record until the completion of the event, or they have left the scene (this includes recording of statements).

Body worn cameras will be assigned with priority given to each of the primary patrol shifts based on the quantity of operational units in KCSO's inventory.

Shift Supervisors will view a random selection of videos on their shift on a routine basis to ensure the equipment is working properly and officers are using the equipment according to policy and law. Any defective body worn camera shall be returned to the Axon body worn camera administrator immediately and replaced. (SCLEA 16.12 b)

Exception - If an officer encounters extenuating circumstances that results in the event not being recorded or the device not being activated, their shift supervisor shall be notified as soon as it is possible to do so.

508.6 STORAGE OF BODY WORN CAMERA DATA

The body-worn camera will be placed in the docking station at the end of their work rotation for charging and uploading unless otherwise approved by their supervisor. Docking stations are located in each unit's work area. The body-worn camera can be connected to a laptop or computer with Axon View XL using a USB-C cord to allow priority upload of videos from the camera to Axon Evidence.com and to charge the camera. (SCLEA 16.12 d)

The media captured via the body worn camera will only be uploaded to Evidence.com. This method documents the date and time the media was recorded and uploaded to Evidence.com. (SCLEA 16.12 e)

Deputies will categorize the recording captured by the BWC and ensure it is properly labeled with the case number (if applicable), uniform traffic ticket or warning ticket number, calls for service number, and appropriate category.

ID: Case Number, Calls for Service (CFS) number, No Enforcement Action (NEA)

TITLE: Type of case, names, location, etc.

CATEGORY: This will be the highest offense for the incident. Only list one category

508.7 REVIEWING RECORDED DATA (SCLEA 16.12 g)

Video and audio captured via the body worn camera will be used for official purposes only.

Axon administrators and supervisors have access to review all data recorded on body worn cameras.

Officers may use media captured via the body worn camera to assist with investigations and to complete reports

Officers involved in any significant use of force incident or accident causing injuries will be permitted, but will not be required, to review their own on-officer video or audio recordings prior to providing a recorded statement or completing reports. Witness officers will only be allowed to review on-officer video if it can be determined that their on-scene position would allow them to contemporaneously perceive events in question from the same perspective as the on-officer video-equipped officer.

Officers may use media captured via the body-worn camera for training purposes, with proper authorization from the investigative unit assigned the case and/or supervisor. Officers may also use the body worn camera for documenting training exercises to better evaluate officer tactics, abilities, safety, etc.

Exceptions - Field Training Officers may use media captured via the body worn camera to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).

508.8 REPORTING

All digital media captured using the body worn camera will be considered property of the Kershaw County Sheriff's Office. Accessing, copying or releasing any media for other than official law enforcement purposes is strictly prohibited and subject to discipline.

508.9 DELETION OF UNINTENTIONAL RECORDINGS

In the event of an unintentional activation of the body worn camera system during non-enforcement or non- investigative activities, (i.e.: restroom or meal break), other areas where reasonable expectation of privacy exists; officers may request recording deletion. No officer will be given the ability to delete any recordings from their body-worn camera. They will notify Evidence.com administrator to delete unintentional recordings.

508.10 RETENTION OF RECORDINGS (SCLEA 16.12 f)

Recordings that did not involve an arrest, use of force, confrontational encounter and are not considered evidentiary or part of any internal investigation will be retained for a period of sixty (60) days. Excluding accidental activations or training/testing demonstrations.

Recordings of any arrests or violations of offenses listed in the S.C. Preservation of Evidence Act, S.C. Code §17-28-320, the expungement statute of S.C. Code §17-1-40, or any other statute, regulation, or case law will follow the retention requirements outlined therein.

Retention time frames shall be established by KCSO and adjusted as necessary for individual categories of videos.

Deputies or investigators assigned follow up investigation of an incident where recordings were collected should extend retention as necessary in support of their investigation.

It shall be the assigned case deputy's responsibility to ensure that all recordings are properly labeled and categorized for storage prior to their scheduled purge date from Evidence.com.

Each deputy is responsible for ensuring that their video, if to be used for criminal/traffic prosecution, the video stays current and available in the Evidence.com until purged from the system.

508.11 PUBLIC RECORDS REQUESTS

Pursuant to South Carolina Code of Laws §23-1-240, data recorded by a body-worn camera is not public record subject to disclosure under the Freedom of Information Act. However, disclosure may be made under the following circumstances:

1. The State Law Enforcement Division, the Attorney General, and a circuit solicitor may request and must receive data recorded by a body camera for any legitimate criminal justice purpose;
2. A law enforcement agency, the State Law Enforcement Division, the Attorney General, or a circuit court solicitor may release data recorded by a body camera in its discretion;
3. A law enforcement agency may request and must receive data recorded by a body camera if the recording is relevant to an internal investigation regarding misconduct or disciplinary action of a law enforcement officer;
4. In addition to the persons who may request and must receive data recorded by a body camera provided in item (2), the following are also entitled to request and receive such data pursuant to South Carolina Rules of Criminal Procedure (Rule 5), the South Carolina Rules of Civil Procedure (Rule 26), or a court order:

    a. A person who is subject of the recording;
    b. A criminal defendant if the recording is relevant to a pending criminal action;
    c. A civil litigant if the recording is relevant to a pending civil action;
    d. A person whose property has been seized or damaged in relation to, or is otherwise involved with, a crime to which the recording is related;
    e. A parent or legal guardian of a minor or incapacitated person described in sub item (1) or (2); and
    f. An attorney for a person described in sub items (a) through (e).

508.12 TRAINING (SCLEA 16.12 h)

Personnel shall be properly trained on how to use a body worn camera when issued. The training shall consist of the operation, preservation, documentation, and downloading of recorded data. The training shall be documented in the personnel's training file.

508.13 DISCIPLINARY ACTION

Personnel found to be in violation of any provision contained within this policy may be subjected to disciplinary action.

508.14 MAINTENANCE / INSPECTION

All deputies assigned a body-worn camera shall be responsible for the maintenance and care of all equipment. As soon as practicable, after a deputy learns of the camera's failure to operate or other malfunction, the failure shall be reported to his/her supervisor and arrangements should be made to repair or replace the device. At the start of each shift, officers should test the body-worn camera system's operation in accordance with manufacturer specifications and department operating procedures, and training. At the end of the shift, each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment

Prior to use, all personnel issued in-car cameras, and their supervisors, will receive training on the policy and procedures related to operating, maintaining, storing, and retrieving video collected.

508.15 ADMINISTRATIVE REVIEW

Supervisors will select random video footage from each officer issued a camera for review during the employee inspections conducted quarterly. An annual administrative review will be completed by the Chief Deputy or his designee and reviewed by the Sheriff.