Body-Worn Cameras and In-Car Video

448.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of body worn cameras (BWC's) and In-Car Video Systems (ICV's) by members of this office while in the performance of their duties (RCW 10.109.010).

This policy does not apply to interviews or interrogations conducted at any Kitsap County Sheriff's Office facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

448.2 POLICY

The Kitsap County Sheriff's Office may issue BWC's and ICV's to members for use during the performance of their duties. The use of BWC's and ICV's is intended to enhance the mission of the Office by accurately capturing contacts between members of the Office and the public. Member's may only wear or use BWC's authorized and issued by the agency.

448.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on BWC's and ICV's shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

448.4 MEMBER RESPONSIBILITIES - EQUIPPING, TESTING AND WEARING

448.4.1 EQUIPPING

All uniformed members assigned a BWC are required to wear the device while on duty. Members assigned to a non-uniformed position will wear a BWC when required by a supervisor, during planned events such as effecting pre-planned arrests or executing a search warrant, and may wear a BWC at any time the member believes that it may be useful.

Patrol vehicles may be outfitted with In-Car Video (ICV') systems. ICV's consist of both hardware and software components, which may include camera (both forward facing and backseat), microphones and data storage devices which are used for the purposes of digitally capturing, storing, and reviewing police related events.

448.4.2 TESTING

Prior to going into service, members will ensure the BWC is in good working order. If the BWC is not in working order, or the member becomes aware of a malfunction at anytime, the member shall promptly report the failure to a supervisor and obtain a functioning BWC as soon as reasonably practicable.

If a member becomes aware their vehicle ICV system is not in working order, that member shall promptly report the failure to a supervisor.

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448.4.3 WEARING

Uniformed members should wear the BWC in a conspicuous manner, affixing their recorder to the chest area of their uniforms. For tactical operations, it is acceptable to affix the BWC to a helmet mount. Any other BWC mount option must be approved by the Sheriff or his designee.

Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the BWC in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

As safety considerations permit, members will make reasonable efforts to position the BWC to obtain useful recordings and capture critical evidence. Members will not intentionally cover or position the recorder or themselves to avoid recording an event.

448.5 ACTIVATION OF THE BODY-WORN CAMERA

448.5.1 MANDATORY ACTIVATIONS

When safe and practical to do so, the BWC will be activated in the following situations:

(a) All enforcement and investigative contacts including stops and field interview (FI) situations.

(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.

(c) self-initiated activity in which a member would normally notify Kitsap 911.

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

(e) Dispatched calls, starting before the member arrives on the call to ensure adequate time to turn on cameras.

(f) Arrests and seizures.

(g) Searches and inventories of vehicles, persons and premises. (Recording may be ceased with Supervisor approval when reasonably articulable.)

(h) Handling and counting of currency up to the point it is sealed in an evidence envelope.

(i) Transports (excluding ride-alongs).

(j) Following or riding in an ambulance or medic units that are transporting persons, who are in police custody, to a medical facility.

(k) Vehicles failing to stop, eluding or police pursuits.

Conversations between law enforcement officers and members of the public are not generally considered private under Washington State Law. There is no requirement for an officer to turn off the BWC at the request from a member of the public who objects to having the interaction recorded under the circumstances described in this section.

448.5.2 ACTIVATION AMNESTY

Developing automatic habits takes time to ingrain through repetition. In recognition of this:

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(a) No member will be subject to discipline for failing to activate a BWC for any reason for the first month, or 21 shifts, whichever occurs later after he or she is assigned to wear a BWC. During the amnesty period, evidence of a failure to activate a BWC shall not be used or considered for performance evaluations or discipline.

(b) The amnesty period will activate upon a member's return to the patrol division from a non-patrol specialty assignment and remain in effect for one month.

(c) The amnesty period shall remain in effect through the entirety of a newly hired member's field training.

448.5.3 EXCEPTIONS TO MANDATORY ACTIVATIONS (DISCRETIONARY RECORDING)

In addition to mandatory activations described in the preceding section, members should activate the BWC anytime the member believes it would be appropriate or valuable to record and incident unless recording is otherwise prohibited by this policy.

Members may exercise discretion by discontinuing recording whenever it reasonably appears that privacy concerns outweigh any legitimate law enforcement interest in recording. Examples of situations where members may consider not recording include:

(a) Requests by members of the public to stop recording when the circumstances do not require mandatory recording under Policy 448.5.1.

(b) Law enforcement activity involving sensitive communications, matters of law enforcement intelligence or where recording the encounter could hinder a criminal investigation.

(c) Conversations with crime witnesses and members of the community who wish to report criminal activity, particularly if recording would impeded the cooperation of a victim or witness.

(d) When a member is in a location where individuals have a reasonable expectation of privacy (such as bathroom or locker-room) and the officer is not there to effect an arrest or serve a warrant.

(e) When respect for an individual's privacy or dignity outweighs the need to record an event. Such circumstances may include natural death scenes, death notifications, child or sexual assault victim interviews,and cultural or religious objections to being recorded.

(f) When the member has an articulable basis, based on facts and circumstances of the particular situation, that recording would be unsafe.

448.5.4 ACTIVATION PROHIBITED

BWC's emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

Members will not record in restrooms, jails and the interior of medical, mental health, counseling, or therapeutic facilities unless for a direct law enforcement purpose. Examples of a direct law enforcement purpose include:

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(a) Crime(s) in progress and the recording of the location is material to a criminal investigation (e.g. Recording of an investigation of a crime committed at the facility, the drawing of blood at a facility following a DUI, the taking of a statement from a suspect or witness while in a facility, etc., would be permitted).

(b) Taking a resisting person into custody

(c) Ongoing or impending use(s) of force.

(d) Recording an allegation of misconduct.

(e) Conducting custodial interrogations at a place pf detention (RCW 10.122.020). See Investigations and Prosecution Policy.

448.5.5 DELAY IN REQUIRED ACTIVATION

Members frequently encounter situations which require immediate action to protect themselves or others. At no time is a member expected to jeopardize themselves or others to activate a BWC. However, the the recorder should be activated in situations situations described in 448.5.1 as soon as reasonably practicable.

448.5.6 NOTIFICATION OF RECORDING

Members should notify all persons present that they are being recorded as soon as practical, and the notification should be on the recording. Members will make reasonable efforts to repeat the notification, if practical, for additional people that become involved in the recording.

If a situation requires immediate action prior to an advisement being given, members should prioritize safety over advisement and provide the advisement as soon as practicable.

Prior to a custodial interrogation, officer shall inform arrested persons that they are being audio and video recorded with a body camera. this statement along with the Miranda advisement, shall be included in the recording.

Members will make reasonable efforts to communicate to non-English speakers, those with limited English proficiency, or deaf persons they are being recorded.

448.6 CESSATION OF RECORDING

Once activated, the BWC should remain on continuously until the member believes the incident has concluded.

448.6.1 DETERMINING THE CONCLUSION OF AN EVENT

An event has concluded when the member has completed his or her part of the active investigation and there is little possibility that the member will have further contact with any person involved in the event. For transports to the jail, the event concludes prior to entering the booking area. (jail slider).. For medical facilities, in general, officers will end recordings when custody is transferred to medical staff and any suspect hostilities have ended. Members will be mindful of sensitive areas of medical facilities, and when possible, end the recording.

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448.6.2 PAUSING OF RECORDING

Recording may be paused during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Audio recording with a BWC may be temporarily disabled, or muted, for conversations with other members or persons not involved with the call. Muting the audio should only be uses in rare circumstances and should not be a common occurrence.

Members may briefly stop the BWC during an event to view video that would assist in an investigation. Members will start recording as soon as the desired information has been gathered.

If a member is assigned to perimeter security at an extended major incident, the on-scene supervisor, may authorize recording to be stopped when he or she reasonably believes further recording wil not capture audio/visual evidence regarding the incident or enforcement efforts.

Members who stop, or mute, recording during an event will state on the recording their intention to stop recording and explain the basis for that decision. If a report is generated, employees will also document the reason(s) in the report.

448.7 IDENTIFICATION, PRESERVATION AND DOCUMENTATION OF RECORDINGS

Members will identify and tag recorded video with any applicable case number, and classify the video by type, prior to the end of their shift.

448.7.1 UPLOAD

Before going out of service, members will dock their BWC to initiate upload of video and recharging. If the video upload is not initiated before the end of shift, members will notify a supervisor.

448.7.2 REPORTING

Members should document the existence or absence of any recording in any report or other official record of the contact, including any instance where the BWC malfunctioned, or the member deactivated the recording. Members should include the reason for deactivation in accordance with RCW 10.109.010(c).

Members should not rely on the fact that a recording was made as a reason to write a less detailed report and may refer to the video when writing the report.

448.8 PROHIBITED USE OF BWC

448.8.1 SURREPTITIOUS USE OF THE BWC

Washington law prohibits any individual from surreptitiously recording any conversation, except as provided in RCW 9.73.040, RCW 9.73.090 and RCW 9.73.210. Members shall not surreptitiously record another department member without a court order.

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448.8.2 ADDITIONAL PROHIBITED ACTIVITIES

(a) Members are prohibited from using BWC's or recorded media for personal use, non-work related purposes or otherwise operate the body camera outside their legitimate law enforcement duties.

(b) Members are prohibited from making personal copies of recordings.

(c) Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes.

(d) Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

(e) Members hall not tamper with, alter, or delete video. This does not apply to redaction or purges of video under established guidelines.

(f) Employees are prohibited from accessing the secure video server except for legitimate law enforcement purposes, including authorized review of body camera video as described below, or otherwise for work related to their job assignment.

448.9 RETENTION OF RECORDS

All recordings shall be retained for a period consistent with with the requirements of the current Washington State Law Enforcement Records Retention Schedule.

Videos labeled as evidentiary shall be retained on the secure video server in compliance with state law and until trial and appellate litigation has been completed.

Video labeled as non-evidentiary shall be retained on the secure video server for 90 days and thereafter may be destroyed in accordance with the applicable retention schedule.

Video redacted for a public records request shall be retained for 24 months after the request and then deleted.

448.9.1 INADVERTENT / ACCIDENTAL ACTIVATION

Inadvertent or accidental recordings do not meet the statutory definition of a public record, as described in RCW 40.14.010, because they are not made "in connection with the transaction of public business" and as such they may be deleted. In the event of an accidental activation, where the resulting recording is of no perceived investigative or evidentiary value, the recording member may request the body camera video be deleted. The member should submit a written request, including the date/time of the inadvertent / accidental recording, through their chain of command to the Division Chief or designee. The Division Chief or designee shall approve or deny the request and take appropriate action.

448.10 RELEASE OF RECORDINGS

Requests for the public release of BWC and ICV recordings shall be processed in accordance with the Records Maintenance and Release Policy. Prior to public or media release, videos will be reviewed and, if applicable, redacted. Redactions will be consistent with statutory exemptions under Washington law; RCW 42.56.240.

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Video may be accessed directly by prosecutors whose offices have an account for the secure video server.

The Sheriff may release BWC and ICV video absent a public disclosure request if:

(a) There is significant public interest to release the video

(b) The video provides information related to the apprehension/prosecution of offenders or,

(c) The video highlights positive work performed by the department.

448.11 INTERNAL REVIEW OF RECORDINGS

1. RECORDED VIDEO

Department members and staff may review BWC and ICV footage under the following circumstances:

(a) When preparing written reports, members may generally review recordings.

(b) By supervisors or administrators anytime they are reviewing uses of force, circumstances where the driver of a vehicle fails to stop when directed by law enforcement (Pursuits / Attempts to Elude / Fail to Obey) or investigating alleged or suspected misconduct. If, during a review under those circumstances, incidental or minor policy issues are observed that are unrelated to the original purpose of the review, such matters may be addressed with a training referral or counseling session.

(c) Supervisors and administrators will not randomly review video footage looking for misconduct. The department acknowledges that video recordings provide only a two-dimensional perspective, with limited vantage points, of an incident. The department may review and consider other evidence (such as witness statements, officer interviews, forensic analysis, documentary evidence, etc.) prior to imposing discipline against a member.

(d) When supervisors or administrators become aware of meritorious conduct by a member. Prior to any recordings being used to aid in recognition of meritorious conduct all members depicted in the video will be notified.

(e) When technical support staff who are assessing the proper functioning of the BWC or ICV.

(f) Department members who are participating in a criminal investigation.

(g) Recordings may be viewed for training purposes. Prior to any recordings being used for training purposes, all members depicted in the video will be notified.

(h) By an employee's legal counsel and/or bargaining unit representative who is involved in representing the employee in an administrative or criminal investigation.

(i) By the County's legal staff involved in representing the County in an official matter, such as an administrative investigation, a lawsuit or criminal investigation.

(j) By authorization of the Sheriff, or designee, for legitimate law enforcement purposes not addressed elsewhere in this policy.

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(k) Artificial Intelligence (AI) may not be used to review or analyze BWC or ICV footage in situations other than those authorized above.

(l) When members are conducting a public records review process.

2. RECALL VIDEO

Each BWC and ICV device may contain a limited amount of stored video, in addition to recorded videos, because even while in stand-by mode, the device may still be recording. This stored video, known as video recall, includes footage not required to be captured by policy (i.e., time between calls or break times). The purpose of video recall is to access video footage under exigent circumstances, such as when an officer is injured and/or incapacitated. Recall video is not retained by the employer and is eventually written over.

Recall video may be reviewed and/or stored by the employer only in exigent or emergency circumstances, or when prior authorization has been granted by a Division Chief or a higher-ranking official. Notice of review and reason for review of the recall video will be provided to the member's union as soon as reasonably practicable.

If, during a lawful and authorized review, incidental or minor policy violations are observed, such matters shall be addressed with training and/or counseling.

448.12 LIVE MAPPING AND STREAMING VIDEO FEATURES

448.12.1 LIVE MAPPING

When a member is actively recording with their BWC, the supervisor can view the location of the member via their BWC in real-time through evidence.com. A list of BWC's that are actively recording or have recorded within the previous four hours can also be viewed.

The Live Mapping feature enables a supervisor to have better situational awareness of a members location. This feature can also be helpful in the following circumstances:

(a) Coordinating a response to a major incident such as, but not limited to, an active shooter, hostage situation, or civil unrest;

(b) Following the location of a foot pursuit; and

(c) Identifying the location of a member in need of assistance, or who is not responding to or is unable to conduct radio communications.

448.12.2 LIVE STREAMING

The Live Streaming feature enables remote viewing of a member's BWC while in recording mode.

Through the Evidence.com Portal, an authorized supervisor or administrator can select a camera displayed on the live map and begin viewing and hearing what the BWC is recording.

The Live Streaming feature enables a supervisor, to view, in real time, a members situation during a call for service.

Applications of the Live Streaming feature can be used in the following situations:

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(a) Tracking and observing a foot pursuit and providing information to responding units;

(b) Viewing high-risk felony incidents, vehicle pursuits, hostage situations;

(c) Viewing a building search or the execution of search warrant entries;

(d) Determining when a member is injured or needs emergency assistance; and

(e) Unusual occurrences.

Notification: When a supervisor or administrator initiates the Live Streaming feature, the BWC will notify the member through a special Live Streaming icon displayed on the BWC's LCD screen. The supervisor or administrator, if safe and appropriate to do so, will also verbally advise the member over the radio.

Authorization: Sworn personnel, the rank of Sergeant and higher, will have authorized access to the Live Streaming and Live Mapping function.

Prohibitions: The use of Live Streaming and Mapping feature in any way other in the course of official duties is strictly prohibited. Any prohibited use of the Live Streaming and Mapping feature will be subject to disciplinary action

448.13 TRAINING

The department shall ensure that all members issued a BWC receive Departmental-approved training upon initial issuance and periodically thereafter (RCW 10.109.10). This training should include:

(a) Department policy on BWC's.

(b) BWC use and operation.

(c) Placement of the BWC.

(d) Procedure for downloading and tagging recorded data.

(e) Procedure for activation, deactivation and reviewing video.

448.14 COORDINATOR

The Support Services Lieutenant shall be responsible the BWC Coordinator and responsible for (RCW 10.109.010):

(a) Establishing procedures for the security, storage and maintenance of data and recordings.

(b) Establishing procedures for transferring, downloading, tagging or marking events.

(c) Establishing procedures for members communicating to non-English speakers, those with Limited English proficiency or those who are deaf or hard of hearing that a BWC is being used (see Communication with Persons with Disabilities Policy).

(d) Establishing procedures for accessing data and recordings.

(e) Establishing procedures for logging or auditing access.

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