



<b>Body Worn Video Recording (BWV)</b>	Related Policies: Duty to Disclose; Mobile Video Recorder
<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 Office for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable State Statutes:	
CALEA Standard:	
Date Implemented:	Review Date:

- I. **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.
- II. **Policy:** It is the policy of this department to provide officers as designated by the Chief of Police with BWV devices as feasible. Officers shall activate the BWV when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations or in-car-video covered under separate policy or directive.
- III. **Definitions:**
  - A. **Law Enforcement Contact:** A law enforcement contact within the meaning of this policy is any contact or activity whereby an Officer stops a person's movement by a means intentionally applied or conducts any activity requiring probable cause, reasonable suspicion, or consent to form the legal basis for the conduct. A law enforcement contact or activity does not include mere conversation or other contact outside the scope of a law enforcement purpose when such contact does not require any legal basis.
- IV. **Procedure:**
  - A. Officers using BWV equipment shall be trained in its use, maintenance, and required documentation and storage of such recordings.
  - B. Officers using BWV equipment will test such equipment at the beginning of each tour of duty or special event to ensure proper operation and required battery life. Improperly functioning equipment shall be reported to the immediate supervisor or

other reporting mechanism established by this department for purpose of replacement or repair.

- C. Officers assigned BWV are required to wear such devices unless otherwise directed by the Chief of Police or their designee or other unforeseen circumstances prevent the wearing of the device. BWV will be worn on the officer's body in a manner that will optimize the recording of events.
- D. 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. Officers are authorized to record events when the officer is a party to the conversation, or when an individual is in custody and there is generally no expectation of privacy. Officers will audibly and video-graphically record, as feasible, the following events, including but not limited to:
  - i. Calls for service in which citizen contact is made;
  - ii. Traffic stops;
  - iii. All transports excluding ride-alongs;
  - iv. Investigative stops;
  - v. Foot pursuits;
  - vi. Arrests, Searches, Seizures;
  - vii. Consensual encounters;
  - viii. Verbal Witness/Suspect Statements;
  - ix. Miranda Warnings, Arrestee Interviews;
  - x. When arriving at law enforcement events and/or citizen contacts initiated by other Officers, and;
  - xi. Other incidents the officer reasonably believes should be recorded for law enforcement purposes.
- E. Officers will make reasonable efforts to ensure the BWV recording equipment is accurately capturing events. Officers are prohibited from turning off the BWV during any citizen contact or law enforcement event unless otherwise authorized by this policy, and Officers shall not erase, alter, modify or tamper with BWV recordings.
- F. Recording shall continue until the law enforcement event or citizen contact is completed and the citizen involved departs or the officer discontinues his or her participation in the law enforcement event or citizen contact by leaving the scene.
- G. In the event an officer deems it necessary to stop recording or becomes aware that a recordable event was not recorded, the officer will document such event.

#### **IV. Issues Related to Privacy:**

- A. BWV should not be activated when: the officer is on break, engaged in personal activities, involved with citizen encounters outside the scope of a law enforcement contact or purpose, or when the officer is in a location under circumstances requiring a respect for an expectation of privacy such as a restroom, locker room, or other area when people are in an exposed or otherwise compromised state. However, should

exigent circumstances develop where the need to record an event outweighs any privacy concern, the officer will activate the device where feasible to do so.

- B.** BWV will not be activated when encountering undercover officers or confidential informants and such encounters should not be recorded.
- C.** When entering a residence that requires the consent of the resident, Officers will inform the resident that he or she is wearing an activated recording device and request permission to continue recording the encounter. If the resident wishes not to be recorded in the interior of their home, Officers will document that desire via the BWV and turn off the device for the remainder of the contact. However, should exigent circumstances develop where the need to record the event outweighs any privacy concern, the officer will reactivate the device where feasible to do so irrespective of the residents desire.
- D.** When legally entering a residence without the consent of the resident, such as serving a warrant or exigent circumstances, or undercover operations, recordings will be made of the incident until its conclusion.
- E.** The BWV will not be activated during personal or administrative conversations between officers, or between officers and supervisors.

## **V. Electronic storage**

- A.** Original digital files from a BWV will be downloaded and stored on a designated network server or other electronic network storage.
- B.** Officers will make reasonable attempts to download video/audio files before the end of each shift.
- C.** Non-evidentiary video/audio recordings will be maintained in electronic storage or the network server for a period of time as directed by the Chief of Police or their designee but in no case will be held less than any required amount of time pursuant to the Arkansas Freedom of Information Act or court decision related thereto.
- D.** Video/audio recordings determined to be evidentiary in any criminal or civil proceeding shall be copied to DVD or other media and handled in accordance with departmental regulations regarding electronic evidence or work product. Recordings will be maintained in accordance with Arkansas law related to police municipal records as outlined in ACA 14-2-204. Recordings known to pertain to civil matters will be maintained for a minimum of three years or until such a time as the civil matter is resolved and all time for appeal has exhausted.
- E.** This agency will maintain a duplicate electronic file of recordings submitted to other agencies for court or other purposes.
- F.** All recording media, recorded images and audio recordings are the property of this agency. Dissemination outside the agency for reasons other than criminal prosecution is strictly prohibited without specific authorization of the Chief of Police or designee.
- G.** Malicious destruction or deletion of video and audio files is prohibited.
- H.** All video and audio files are subject to open records request as allowed by Arkansas law.
- I.** Electronic media will be stored in a manner designated by the agency.

- J. If a recording is used in a disciplinary action resulting in suspension or termination against an employee, the recording shall be held for a minimum of three (3) years from the completion of the disciplinary action.
- K. Electronic Media is subject to review by the Chief of Police or their designees.
- L. Video shall not be reproduced without the express authority of the Chief of Police or their designee.
- M. First line supervisors or a designee should review a random sample of BWV recordings quarterly for each officer supervised for policy, training and legal compliance. After review, the supervisor will document the review and any supervisory actions taken. Supervisors should meet with individual Officers to provide guidance, training and correction when required. Supervisors will initiate formal counseling or internal affairs procedures; as the need arises. When corrective action is taken, a special review may be implemented for that particular officer for a set duration of time in order to ensure compliance with the corrective action.

**VI. BWV Evidentiary/Administrative Procedures:**

- A. When an officer becomes aware that a BWV recording contains potential evidence of a criminal or administrative matter, the officer is required to ensure the video is uploaded to the network server (or other storage medium) and document such recording via police report and/or other procedures established by this department.
- B. When a BWV related to evidence of a criminal or administrative matter is recorded, the evidence custodian will ensure the video is uploaded to the network server or other electronic media and disseminated per department procedures.
- C. 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.
- D. 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 F.O.I.A. request.