



Document Number: **411**
Document Name: **Portable Recording System**
Effective Date: *July 10, 2017*
Document Status: *Draft*

411.1 PURPOSE AND SCOPE

With the goal of enhancing accountability and public trust, this policy will provide the Office's Emergency Services Unit (ESU) personnel with procedures for the use and management of Body Worn Camera (BWC) equipment, and the access, retention, storage, and retrieval of recorded media captured by BWC equipment pursuant to Minn. Stat. §13.825. The purpose of BWC equipment used by ESU deputies is to accomplish the following:

- Enhance accountability and public trust by preserving evidence of deputy interaction with citizens.
- Capture digital audio-video evidence for criminal, civil and traffic-related court cases.
- Serve as a training tool for deputy safety and best practices in the Office.

411.2 POLICY

Body worn cameras provide documentary evidence for criminal investigations, internal or administrative investigations and civil litigation. ESU Deputies assigned this equipment shall utilize this device in accordance with the provisions in this policy to maximize the effectiveness of the audio/video documentation to achieve operational objectives and to ensure evidence integrity.

411.3 DEFINITIONS

Activation: Any process that causes the BWC system to record audio or video data. Activation will be done manually.

Authorized Personnel: Personnel designated by the Sheriff or designee, to manage data recorded by the BWC. Such management includes duplication, redaction and lawful destruction of data as required by law and the Office's Records Retention Policy. Designated personnel may include, but is not limited to: Responsible Authority Designee, Records Management Specialists, Crime Lab Personnel and internal Information Technology Personnel.

Body Worn Camera (BWC): A portable recording system, designed to be worn by an ESU deputy, capable of both video and audio recording of the deputy's activities, interactions with others and collecting digital multimedia evidence as part of an investigation.

BWC Equipment Check: An audio-video test to ensure that the BWC equipment is in working order. This check shall include a test of the video and microphone recording components, and a date and time check.

BWC Operational Guide: Training manual that outlines the protocol for operating the BWC system/equipment.

BWC Uploading: The act of transferring recorded data from the BWC to the storage server.

Classify: To categorize an event that has been recorded and for which a predetermined retention period has been set.

Critical Incident: An incident involving any of the following situations occurring in the line of duty:

- The use of deadly Force by or against a deputy;
- Any incident that has caused or is likely to have caused great bodily harm or death to any person to include Office employees;
- Any incident deemed critical by the Sheriff or designee.

Data Subject: The ESU deputy who collected the data, and any other individual or entity, including any other peace officer, regardless of whether the peace officer is or can be identified by the recording whose image or voice is documented in the data. (Minn. Stat. §13. 825, subd. 4.)

Deadly Force: As defined by Minn. Stat. §609.066, which states that: “Force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm other than a firearm loaded with less-lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.”

Deactivation: Any process that causes the BWC system to stop recording. Deactivation will be done manually.

Designated Upload Site: Location where ESU deputies complete the task of uploading BWC recordings to a storage server through a PC or docking station.

Emergency Service Unit (ESU): Consists of a designated unit of deputy sheriffs that are specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex or unusual that they may exceed the capabilities of first responders. This includes, but it not limited to, hostage taking, barricaded suspects, snipers, terrorist acts, and other high-risk incidents.

Great Bodily Harm: Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm.

Portable Recording System Data: Means audio or video data collected by a BWC system.

Pre-Event Recording: Video stored by the BWC system prior to manual activation. This is a configurable feature for the digital BWC system and is preset to record video prior to manual activation. The pre-event recording is included as part of the incident and is viewable during playback.

Record Mode: Any time BWC equipment is recording audio or video as indicated on the LCD monitor, wireless microphone or DVR.

Recorded Media: Audio-video signals recorded on any of several storage devices, including but not limited to, portable digital storage devices (e.g. CD, DVD, hard drive, flash drive).

Redact: Means to blur video or distort audio so that the identity of the subject in a recording is obscured sufficiently to render the subject unidentifiable.

411.4 ESU DEPUTY RESPONSIBILITIES

- a) ESU deputies assigned a BWC shall use it in accordance with Office training, Office policies, and the manufacturer's recommendations.
- b) ESU deputies shall wear the BWC in accordance with Office training, using mounting equipment provided by the Office. Any alterations to the prescribed use of this equipment must be approved by the BWC coordinator or the Sheriff or designee.
- c) ESU deputies shall complete Office authorized training in the use and operation of the BWCs prior to being assigned a BWC.
- d) ESU deputies shall wear the BWC only during ESU approved events.
- e) Prior to going into service, each ESU deputy will be responsible for making sure that he/she is equipped with a portable recorder issued by the Office and that the recorder is in good working order (Minn. Stat. § 13.825).
- f) ESU deputies shall notify their immediate supervisor as soon as practical of any missing, damaged, or malfunctioning BWC equipment.
- g) If the recorder is not in working order or the ESU deputy becomes aware of a malfunction at any time, the ESU deputy shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable.
- h) ESU deputies shall notify their immediate supervisor of any recorded event to be of value for administrative review.
- i) ESU deputies shall upload all BWC digital data at the conclusion of their shift by placing their BWC in the assigned docking stations or utilizing other Office approved uploading procedures.
- j) ESU deputies are encouraged but not required to inform members of the public that they are being recorded. If asked, deputies should inform those inquiring that audio-video recording equipment is in use, unless doing so would be unsafe for the ESU deputy or members of the public.

411.5 RESTRICTIONS

- a) ESU deputies shall not use the BWC for personal use or for any other reason inconsistent with this policy.
- b) ESU deputies shall not use any personally-owned recording device to capture audio, video or photographic data while on duty. Only devices issued by the Office are authorized for such use.
- c) Disabling BWC equipment, intentionally interfering with audio or video recording capabilities, and altering, duplicating, deleting or destroying BWC recordings are prohibited, except by Authorized Personnel in the course and scope of their lawful job duties and in accordance with record retention laws and policies and the provisions of this policy. Only the Sheriff or designee can designate such Authorized Personnel.
- d) ESU deputies shall not use Office issued BWCs while working for another law enforcement agency (i.e., U of MN PD) or while off-duty.
- e) ESU deputies shall not use the BWC outside of ESU unless authorized by the Sheriff or designee.

411.5.1 EXPLOSIVE DEVICE

Many portable recorders, including BWCs emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

411.6 ACTIVATION

This policy is not intended to describe every possible situation in which the BWC should be used, although there are many situations where its use is appropriate.

The BWC should be activated in any of the following situations:

1. ESU Deputies shall record contacts with citizens in the performance of their official duties including but not limited to:
 - a) Any tactical entry or forced entry into a building, unless a supervisor has determined in advance that the video or audio data could result in the disclosure of operational or tactical information that would compromise the effectiveness of future actions or jeopardize deputy safety.
 - b) Any hostage taking event, barricaded suspects, snipers, terrorist acts and other high-risk incidents (Policy 408), unless a supervisor has determined in advance that the video or audio data could result in the disclosure of operational or tactical information that would compromise the effectiveness of future actions or jeopardize deputy safety.
 - c) When ordered to do so by a supervisor.
 - d) Prior to any response to resistance. If a BWC is not activated prior to a use of force, it shall be activated as soon as it is safe to do so.
2. Activation with ESU deputy discretion:
 - a) General citizen contacts where the ESU deputy feels that recording is appropriate.
 - b) Anytime an ESU deputy feels it is appropriate to preserve audio/visual data when taking a statement from a victim, suspect or witness. Deputies are encourage but not required to notify a victim or witness of the use of the BWC. If asked, deputies should inform those inquiring that audio-video recording equipment is in use unless doing so would be unsafe for the ESU deputy or members of the public.
3. The BWC shall not be activated solely for the purpose of surveillance of or identification of individuals engaged in constitutionally protected activities conducted in a lawful manner.

If there is failure to activate the BWC in any of the above situations, the ESU deputy shall document the reasons for the failure in their report.

At no time is an ESU deputy expected to jeopardize his/her safety in order to activate a BWC.

411.7 DEACTIVATION

Once activated, the BWC shall be left in the record mode until the conclusion of the event or as directed by a supervisor.

Notwithstanding the above, once an event has been stabilized and if the ESU deputy or ESU supervisor reasonably believes there is no longer necessary audio or visual evidence to capture, and that none of the circumstances requiring activation will likely occur, the BWC may be deactivated:

- To protect the identity of a deputy in an undercover capacity.
- To protect the identity of a confidential reliable informant.
- The incident or event is of such duration that it is necessary to deactivate the BWC to conserve power or storage.
- To discuss issues surrounding the incident/investigation with a supervisor or another deputy in private.

- When ordered to by an ESU supervisor.

If a request is made for a BWC to be turned off by a party being contacted, the ESU deputy should take into account the overall circumstances. For example, a deputy may choose to turn off the BWC if its operation is inhibiting a victim or witness from giving a statement. Factors to consider may include the type of call and the vulnerability of the victim.

Prior to deactivating a BWC, ESU deputies shall provide an audible narration prior to deactivation. If a report is prepared, the deactivation and the reason shall also be documented in the report or supplement. If a report is not prepared, the reason for the deactivation shall be documented via added remarks in Computer Aided Dispatch (CAD).

411.8 REPORT WRITING

Absent a critical incident, when preparing written reports, ESU deputies may review their recordings as a resource. Deputies shall not retain personal copies of recordings. Employees should use a recording as an aide, but not as a substitute for a detailed written report.

An ESU deputy shall document the following in their report:

1. Whether audio or video evidence was gathered relating to the events described in the report.
2. If the BWC was deactivated prior to the conclusion of the event, the fact that the BWC was deactivated and the reason for deactivation.
3. Any malfunction of the BWC equipment in either the recording or the uploading of the event.

411.9 BWC DATA RETENTION

BWC system data shall be maintained in accordance with applicable law, this policy and the Office's records management and retention schedule.

411.10 BWC SYSTEM DATA CLASSIFICATION AND REQUESTS FOR RECORDINGS

Data collected by a portable recording system are governed by Minn. Stat. 13.825, subd. 2, other applicable state law and provisions of this policy:

All BWC recordings are the property of the Office and original BWC system recordings shall remain in the sole custody of the Office, unless necessary for the preparation of civil, criminal or administrative matters, used in court as evidence, provided to an expert for analysis, provided to another law enforcement agency in the scope of their investigation, if required to be provided to another by lawful order or as may otherwise be required by the Minnesota Government Data Practices Act or other applicable state law.

- a) All BWC system recordings shall be handled in accordance with the Minnesota Government Data Practices Act, Minn. Stat. 13.825 and Office Policy 810.
- b) In no event shall any recording be used or shown for the purpose of ridiculing, embarrassing or intimidating any person.
- c) Recorded data may only be replayed or displayed for training purposes with the approval of the Sheriff or designee. Nothing herein prohibits the Employee Development Unit from having access to BWC recording for the purpose of planning training.

- d) Data captured by the BWC may be accessed by authorized Office personnel, provided the access is in the course and scope of the employee's lawful job duties, or used as evidence relating to:
 - Pending administrative, criminal, civil or traffic matters;
 - A complaint of misconduct made against an ESU deputy;
 - In situations where evidence of deputy misconduct is discovered during the course of authorized access (including force reviews);
 - A random or uniform review of BWC data with regard to equipment functionality, policy compliance; or
 - Any other purpose authorized under this policy and consistent with State and Federal law.
- e) Requests by Office personnel for duplication of BWC data for purposes of official Office business shall be directed to the Administrative Services Bureau.
- f) Employees are prohibited from using recording devices to duplicate BWC video or audio in any form, including cell phones or video cameras.
- g) All requests for BWC recordings shall be referred to the Sheriff's Responsible Authority Designee and will be considered in accordance with the Minnesota Government Data Practices Act, Minn. Stat. 13.825 or other applicable state law.
- h) ESU Deputies shall not share BWC recordings with any member of the public or any Office employee, unless it is required in the performance of their official duties and consistent with State and Federal law.
- i) All accesses of the BWC data are documented automatically as part of the BWC equipment technology. Data relating to accesses will be retained in accordance with the retention schedule for the BWC data that was accessed.
- j) Any necessary and lawful redaction or other editing of BWC recordings shall only be completed by the Responsible Authority Designee in the course and scope of their lawful job duties and in accordance with Minn. Stat. §13.825, other applicable state law and the provisions of this policy.
 - a. The original recording shall remain intact and stored within the authorized storage system in accordance with Office policies, record management retention schedules and pursuant to Minn. Stat. §13.825.

411.11 CRITICAL INCIDENTS

See Office policy 310 'Critical Incident' for required protocols.

1. Involved or witness ESU deputies shall maintain custody of their BWC equipment until Crime Lab personnel take custody of the equipment.
 - a. In the event that any deputies will be photographed as part of the Critical Incident protocol, ESU deputies shall leave BWC equipment on their uniform until photographs are completed.
 - b. Authorized Crime Lab personnel will be responsible for ensuring any BWC recordings are properly uploaded.
 - c. Once all uploads are completed, the assigned investigator(s) will be responsible for authorizing release of the BWC equipment to the ESU deputy or other appropriate personnel.
 - d. In the event that Crime Lab personnel are unable to take custody of the BWC, the on-scene investigators shall coordinate custody of the BWC and uploading of the video.

2. When investigation of the incident is transferred to another law enforcement agency, ESU deputies will provide their BWC to the investigating agency, as directed by their supervisor.
3. In any Critical Incident, absent exigent circumstances, video and audio data shall not be viewed unless approved by the Chief Deputy or designee.

411.12 ACCOUNTABILITY

Any employee who accesses or releases recordings without authorization may be subject to discipline, including and up to discharge (Minn. Stat. § 626.8473.)

411.13 INVENTORY OF PORTABLE RECORDING SYSTEM TECHNOLOGY

Pursuant to Minn. Stat. §13.825, subd. 5, the Office's Administrative Services Bureau must maintain the following public data:

1. The total number of recording devices owned or maintained by the Office;
2. A daily record of the total number of BWC recording devices actually deployed and used by ESU deputies;
3. The policies and procedures for use of BWC systems required by section 626.8473; and
4. The total amount of recorded audio and video data collected by the BWC system and maintained by the Office, the Office's retention schedule for the data, and the procedures for destruction of the data.

411.14 BIENNIAL AUDIT

Pursuant to Minn. Stat. 13.825, subd. 9, the Office's Administrative Services Bureau must:

1. Maintain records showing the date and time BWC system data were collected and the applicable classification of the data;
2. Arrange for the biennial audit of the data.

The results of the audit are public, except for data that are otherwise classified under law.