

Body-Worn Cameras

423.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of body-worn cameras by members of this department while in the performance of their duties.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Cuyahoga County Sheriff's Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices). This policy does not apply to correction officers and corrections supervisors assigned to the CCCC.

423.1.1 DEFINITIONS

Axon Vehicle Signal – A system installed in each marked Sheriff's Department vehicle that works in coordination with Axon BWCs to automatically place the BWC into record mode without having to manually activate the Event Mode.

Body Worn Camera (BWC) – A device worn or otherwise carried by a member of the CCSD that is capable of recording video and audio on an internally-secured memory.

Buffering Mode – After the BWC is powered on, it continuously loops 30 seconds of video only.

Categorization – Data fields completed by the deputy while in the application via mobile device application or completed after the recording is downloaded to the Axon.com website. The deputy will list the CAD number or inmate SO number, as appropriate, associated with the incident that was recorded.

Event Mode – Activated when the BWC is in buffering Mode and the event button is pressed two (2) times within one second.

Proximity Activation – A signal from either a Conductive Energy Weapon (when the safety is shifted up, A.K.A. armed) or from a vehicle lightbar.

Sleep Mode – A change of camera status that puts the camera in an idle state that disables recording and buffering. The purpose of using Sleep Mode is primarily to pause buffering or recording while tending to bodily functions or other situations necessitating privacy.

423.2 POLICY

The Cuyahoga County Sheriff's Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

423.3 COORDINATOR

The Sheriff or the authorized designee should designate a coordinator responsible for:

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

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- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.
- (e) Establishing procedures for a documented review of recordings.

423.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity of this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

423.5 MEMBER RESPONSIBILITIES

Before going into service, uniformed members issued a BWC will be responsible for ensuring that they are equipped with a BWC issued by the Department, the BWC is in good working order and is fully charged. If the BWC is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to their supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

The assigned member shall use the Event Mode to record their name, CCSD badge number and the current date and time at the beginning of their shift. At the conclusion of this start-of-shift video, the member will place the BWC in Buffering Mode for the remainder of their shift. Once in Buffering Mode, the BWC will not be turned off during the shift. If needed, members must charge the BWC during their shift.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

423.6 ACTIVATION OF THE BWC

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the BWC whenever they believe it is appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

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

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- (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 deputy would typically notify Dispatch
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- (e) At the conclusion of a shift, the member will complete an end-of-shift video by activating the BWC and stating their name, the date, and that this is an end-of-shift test video. The member shall record an end-of-shift video regardless of whether or not any activity was recorded during the shift.

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording. Before honoring a request to cease recording by any person, the deputy must receive verbal authorization from a deputy supervisor.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

423.6.1 PROXIMITY ACTIVATION

All marked Sheriff's Department vehicles, except the two (2) inmate transport buses and the SWAT vehicles, have the Axon Vehicle Signal installed. Proximity Activation will occur whenever the gun release button is pressed or when the emergency lights are activated to the third position using the four-position slide switch. (Dodge and Ford Cruisers) or the second position (Tahoe).

This enhancement to the Axon system allows the deputy to focus on the event without the distraction of having to start the recording.

All deputies must leave a BWC activated by a Proximity Activation in record mode and investigate the cause of a Proximity Activation. Deputies shall not automatically dismiss the signal as false.

423.6.2 CESSATION OF RECORDING

Once activated, the BWC should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped or paused using the Sleep Mode during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

423.6.3 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Ohio law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (ORC § 2933.52).

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Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Sheriff or the authorized designee.

423.6.4 EXPLOSIVE DEVICE

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

423.7 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued BWCs for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty or while acting in their official capacity, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of their supervisor. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

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

423.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.

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- (f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

All recordings shall be properly labeled as follows:

- (a) Title - Description accurately describing the event
- (b) Identified (ID) - With the Call for Service number in its entirety using only numerical characters (excluding Administrative videos).
- (c) Categories - Only one (1) category shall be selected with the highest retention period pertaining to the event. See retention schedule listed below.

The camera will be docked at the end of the shift or as soon as possible. Cameras shall be docked no less than six (6) consecutive hours at least once a week.

423.9 RETENTION OF RECORDINGS

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule.

SCHEDULE OF RETENTION OF BWVC BASED ON CATEGORY

- (a) Homicide/Sex Crimes including dead body investigations, Sexual Assault Investigations, and Accident with Fatalities incidents shall be permanently retained.
- (b) Critical Incidents including all felony Reports, Hit-Skip accidents, all arrests (both felony and misdemeanor), Vehicle/Foot Pursuits, and any Use of Force incidents shall be retained for a minimum of five (5) years.
- (c) Misdemeanor Traffic Stops, Citations and Citizen Encounters shall be retained for a minimum of two (2) years from the incident.
- (d) Administrative, including Start/End of Shift, Calls for Service without Citizen Encounters, and Vehicle inspections shall be retained for a minimum of ninety (90) days.
- (e) Overdoses relating to opioid overdoses and suspected opioid overdoses shall be permanently retained.
- (f) Demonstrations including all videos made in connection with a demonstration or protests shall be retained for a minimum of five (5) years.

423.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of BWC#recordings shall follow the Schedule of Release listed below.

SCHEDULE OF RELEASE OF BWC and other Video/Audio BASED ON CATEGORY

- (a) Deputy/Officer involved shootings, and all use of deadly force should be available for release within seven (7) business days.

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All BWC and other video/audio recordings may require more time for release based on volume, legal redaction and all requests will be handled promptly and within a reasonable time. Any records covered under the Confidential Law Enforcement Investigatory Record may be exempt from disclosure (ORC § 149.43 a2). The Sheriff is not required to release footage of an incident if prohibited by a court order or other legal prohibition.

423.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource. However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Sheriff or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with this policy.

All recordings should be reviewed by the Custodian of Records prior to public release. Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

Request for redaction of certain portions of the recordings (i.e. restroom, inadvertent/accidental activation) must be submitted in writing and approved by the Sheriff or designee. If applicable, the video will be placed into the category of accidental activation and restricted from view. This video will then be automatically deleted based on retention time.

423.11 POLICY REVIEW

Annually, the Sheriff or the authorized designee shall conduct a review of this policy for best practice and compliance purposes.

423.12 TRAINING

Initially, at least annually, or more frequently upon any updates, sworn members of this department shall certify in writing, or acknowledge electronically, that they have received, read, and understand this policy.

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423.13 MANDATORY SUPERVISORY REVIEW

Any Sergeant who is assigned personnel with BWCs is required to randomly review six (6) videos each calendar month to ensure compliance with this policy. Additionally, CCSD supervisors have the ability to review captured videos at any time to ensure compliance with CCSD policies, to investigate complaints, or for training purposes. BWCs are subject to review by supervisors and the deputy who made the recording.

423.14 SHERIFF AUTHORIZATION

By Order Of,

/S/ Harold A. Pretel

Harold A. Pretel

Sheriff of Cuyahoga County

HAP/wpm

Policy Unit