



PAWNEE COUNTY SHERIFF'S OFFICE  
SHERIFF DARRIN VARNELL

Policy #  <b>Body Worn Video Camera</b>	Related Policies: Stops, Search & Arrest; Motor Vehicle Contacts;
<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 The Pawnee County Sheriff's Office for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Oklahoma Statutes	
CALEA Standard:	

- I. **Purpose:** The purpose of this policy is to direct Deputies 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:** The policy of The Pawnee County Sheriff's Office is to provide Deputies with body worn video recording devices in an effort to collect evidence to be used in the prosecution of those who violate the law, for Deputy evaluation and training, and to provide accurate documentation of law enforcement and citizen interaction. The use of a BWV system provides persuasive documentary evidence and helps defend against civil litigation and allegations of Deputy misconduct. Deputies assigned the use of these devices shall adhere to the operational objectives and protocols outlined herein so as to maximize the effectiveness and utility of the BWV and the integrity of evidence and related video documentation.
- III. **Procedure:** It is the intent of this policy that all Deputies who will be using BWV equipment shall be trained on the manner in which the BWV shall be tested, maintained, used and how the recorded events will be properly documented and maintained as evidence in future judicial proceedings.
  - A. It shall be the responsibility of each individual Deputy to test the BWV equipment at the beginning of each tour of duty. Deputies equipped with the BWV will ensure that the batteries are fully charged prior to the beginning of their shift or special event.
  - B. In the event that the equipment is found to be functioning improperly, the Deputy shall report the problem immediately to their immediate supervisor so that the information can be documented, and arrangements made for repair.
  - C. Uniformed Deputies assigned Body Worn Video cameras will wear them at all times while on duty in any type of uniform.

- D.** A law enforcement Deputy may temporarily stop recording with the body camera when such Deputy is engaged in a personal matter, such as a personal conversation or using the bathroom
- E.** When entering a residence under non-exigent circumstances, a law enforcement Deputy shall ask the residents whether they want the Deputy to stop recording with the body camera while in the residence. The Deputy shall record the exchange to document the wishes of the residents
- F.** A body worn camera can only be activated for a law enforcement purpose
- G.** Deputies assigned to non- uniformed investigative duties and undercover investigative assignments are not subject to the provisions of this policy.
- H.** BWV will be worn as directed by the manufacturer of the particular device to optimize the video/audio perspective of the device.
- I.** Deputies are authorized to overtly record any law enforcement event when the Deputy is a party to the conversation.
- J.** Deputies of The Pawnee County Sheriff's Office are prohibited from using privately owned body worn cameras
- K.** Deputies shall activate body cameras when receiving a call for service and prior to arrival at the scene.
- L.** Uniformed Deputy who are assigned BWV are required to record with audio and video the following incidents:
  - a.** All calls for service in which citizen contact is made
  - b.** All traffic stops
  - c.** All citizen transports (excluding ride-along)
  - d.** All investigatory stops
  - e.** All foot pursuits
  - f.** Arrests of any persons
  - g.** Searches of any kind
  - h.** Seizure of any evidence
  - i.** Requests for consent to search
  - j.** Miranda warnings and response from in custody suspect
  - k.** Statements made by citizens and defendants
  - l.** K-9 searches of vehicles
  - m.** Issuance of written violations
  - n.** Field Sobriety Tests
  - o.** When arriving at law enforcement events and/or citizen contacts initiated by other Deputies
  - p.** Other incidents the Deputy reasonably believes should be recorded for law enforcement purposes

- M. Deputies will make every reasonable effort to ensure that the BWV recording equipment is accurately capturing events. A reasonable effort includes:
  - a. Positioning and adjusting the BWV to record the event to the extent this can be accomplished without compromising Deputy safety.
  - b. Deputies shall not erase, alter, modify or tamper with BWV recordings
- N. The recording shall continue until the law enforcement event or citizen contact is completed and the citizen involved departs or until the Deputy, who is recording the event through a BWV discontinues the participation in the law enforcement event.
- O. If an Deputy deems it necessary to stop recording during the event, the Deputy will make a verbal statement citing the intentions to stop the recording and the reason.
- P. An Deputy who does not activate a body worn camera in response to a call for assistance shall document in the incident report or otherwise note in the case file or record the reason for not activating the camera.
- Q. When a BWV recording is being entered into the property and evidence storage and management area of the agency the chain of custody log shall include, but need not be limited to:
  - a. Case tracking number
  - b. Date recorded
  - c. Date submitted
  - d. Deputy submitting the media
  - e. Hold for evidence indication
- R. If an Deputy assigned BWV equipment, participates in a law enforcement event or citizen contact and becomes aware that the event was not recorded using the BWV equipment, the Deputy shall notify the supervisor as soon as practical.
- S. **Deputy Review of Video Prior to Making Statements:**
  - a. Deputies shall be allowed to review the audio/visual recordings of an event prior to preparing official reports and documents or answering questions pertaining to the recorded law enforcement encounter.

#### IV. Issues Related to Privacy:

- A. The BWC should not be activated when the Deputy is on break or otherwise engaged in personal activities or when the Deputy is in a location where there is a reasonable expectation of privacy, such as a restroom or locker room.
- B. An Deputy equipped with a body worn camera may choose not to activate a camera or choose to discontinue a recording currently in progress for any **non-confrontational encounter** with a person, including an interview of a witness or victim.
- C. For safety and confidentiality reasons, encounters with undercover Deputies or confidential informants should not be recorded.
- D. Undercover contacts or plainclothes contacts are exempt from this policy where utilizing a camera may create a dangerous situation or otherwise diminish the investigative success of the operation.

- E. BWC activation is limited to situations involving official law enforcement activities authorized by law or court order, including consensual citizen encounters and investigation of law violations.
- F. The purposeful-intentional activation of BWCs during personal conversations between Deputies and between Deputies and supervisors involving counseling, guidance sessions, or personnel evaluations is prohibited by this policy unless all parties present agree to be recorded.
- G. In the event of an accidental recording the recording will be maintained in accordance with non-evidentiary recordings and maintained for a minimum of two weeks. Deputies are prohibited from erasing any audio or video recordings. If the agency believes accidental recording may constitute an unwarranted invasion of personal privacy, the agency shall request an Open Records Decision by the legal authority in the jurisdiction.

## V. Recording of Juveniles and Release of Materials.

- a. Access to a person's juvenile crime records is much more restricted than access to adult crime records. Most juvenile crime records are confidential and access will be denied to the public and media. Access to juvenile records is usually only granted to certain persons and organizations such as: Local, state and federal law enforcement, Prosecutors, Court officials, Parents, The juvenile's attorney. Recordings that capture criminal activity involving juvenile offenders will not be released to media or the general public.
- b. No recordings of Juveniles captured through the use of the Office's will be released to the public or the media; this includes but is not limited to images and voice recordings of Juvenile Victims and Juvenile Witnesses.
- c. School Resource Deputies (SRO): Students are protected from release of records by the Family Educational Rights and Privacy Act. The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. SRO's that capture video and audio recordings of students during educational and extra-curricular school activities are subject to FERPA.

## VI. Electronic storage

- A. Original digital files from BWV will be downloaded and stored on a designated network server or other electronic storage.
- B. Tapes or other storage media shall be held in accordance with the state's record retention act for law enforcement records.
- C. Non-evidentiary video and audio recordings will be maintained for a minimum of **90 days** after their creation.
- D. Misdemeanor Arrest (Citizen's Arrest/Warrant Arrest/PC Arrest) or an Investigation Involving a Misdemeanor Crime will be maintained for **one (1) year**
- E. Felony Arrest (Citizen's Arrest/Warrant Arrest/PC Arrest) or an Investigation Involving a Felony Crime will be maintained for **three (3) years**
- F. Deputies shall download video/audio files before the end of each shift.

- G. 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 agency regulations regarding electronic evidence or work product. A back-up copy of the evidentiary Video/Audio recording will be created and maintained in accordance with the procedures outlined for the original recording. Recordings will be maintained until the case is adjudicated and the time for all appeals has been exhausted. If the case is declined for prosecution, the media will be maintained as part of the case file in keeping with laws related to records retention.
- H. The Pawnee County Sheriff's Office will maintain a duplicate electronic file of recordings submitted to other agencies for court or other purposes.
- I. All recording media, recorded images and audio recordings are the property of this agency. Dissemination outside the agency is strictly prohibited without specific authorization of the Sheriff or designee.
- J. Malicious destruction or deletion of video and audio files is prohibited.
- K. All video and audio files are subject to open records request as allowed by Oklahoma law.
- L. Electronic media will be stored in such a way as to maintain the security and integrity of the audio/video recordings.
- M. No member of The Pawnee County Sheriff's Office shall alter, redact, delete, or destroy any original or back up copy of an audio/video recording without approval of the Sheriff or their designee.
- N. 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.
- O. Electronic Media is subject to review by the Sheriff or their designees.
- P. Video shall not be reproduced for purposes which are outside the scope of authorized uses under this policy without the express authority of the Sheriff or their designee.
- Q. First line supervisors should review at least one BWV recording every 60 days for each Deputy 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 Deputies 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 Deputy for a set duration in order to ensure compliance with the corrective action.

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

- A. When an Deputy becomes aware that a BWV recording contains potential evidence of a criminal or administrative matter, the Deputy is required to ensure the video is uploaded to the network server (or other storage medium) and document such recording via agency report and/or other procedures established by this Office.
- 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 and disseminate per Office 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 Office.
- D. Civilians shall not be allowed to review recordings except as approved by the Sheriff or their designee, through the process of evidentiary discovery and/or proper public records request.

**VIII. Training:**

- A. The Pawnee County Sheriff's Office will conduct training on the use of BWV to Deputies who will wear the body worn cameras and to any other personnel who will come into contact with video and audio data obtained from the use of body worn cameras.