

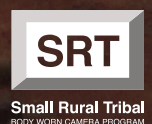
# Body-Worn Camera Policies and Procedures: Guidelines for Tribal Law Enforcement

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# Body-Worn Camera Policies and Procedures: Guidelines for Tribal Law Enforcement

## Introduction

Tribal law enforcement agencies confront numerous unique jurisdictional issues, resource shortages, and other public safety challenges. Given the complications facing many tribal police agencies, there is vital need for a well-defined set of guidelines for the introduction, implementation, and ongoing maintenance of a body-worn camera (BWC) program. The purpose of these guidelines is to provide a broad framework which decision-makers should take into consideration when developing a written directive.

The laws and regulations which govern the roles, responsibilities, and scope of policing powers of a tribal law enforcement agency are complex and have a direct bearing on how BWC footage may be handled, preserved, and transmitted within and outside of the agency. All these considerations should be clearly delineated within the agency's written guidelines.

More broadly, the guidelines developed by an agency should consider critical decision points involving the overall use of BWCs, the program's overall internal processes, and the handling and preservation of body-worn camera footage.

## Background

Understanding the complexities of policing in Indian Country is essential to addressing issues related to policies and procedures related to body-worn cameras (BWCs). The framework for the criminal justice system in Indian Country is not straightforward. Deciding which authority has law enforcement jurisdiction (tribal, state, county, or federal) is very much dependent upon a variety of factors, including where the crime was committed, whether the perpetrator is an Indian or non-Indian, whether the victim is Indian or non-Indian, the type of crime committed, and statutory authority that governs the crime (e.g., federal or state governments).<sup>1</sup>

According to the latest figures from the Bureau of Justice Statistics (BJS), there are 258 tribal police departments with at least one sworn officer with arrest authority or authority to issue citations in Indian Country.<sup>2</sup> These agencies' jurisdictions overlap with cities, counties, and state law enforcement and do not have uniform ways in which to operate. Jurisdictional issues in Indian Country have long been complicated by a mixture of multifaceted tribal, state, and federal laws, policies, and court decisions. It is for these reasons, among others, why it is difficult for law enforcement to work together and effectively address many types of criminal offenses. These unique challenges underscore how the use and application of body-worn cameras among tribal law enforcement can be equally complex. Without adequate planning, pre-implementation processes and a written set of guidelines, the introduction of this technology could prove to be even more challenging.

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1 U.S. Department of Justice. Bureau of Justice Assistance (2021, January 31). "Chapter 3. Rural and Tribal Law Enforcement." Deliberative and Pre-decision Paper. Updated January 13, 2021. <https://www.justice.gov/file/1354601/download>

2 U.S. Department of Justice, Bureau of Justice Statistics (July 2023). "Tribal Crime Data Collection Activities, 2023." <https://bjs.ojp.gov/topics/tribal-crime-and-justice>

## Unique Aspects of Tribal Policing

The work activities of tribal police officers are similar in many ways across different sized law enforcement agencies and U.S. policing agencies. Officers in small departments tend to deal with a greater variety of crime types and a wider array of issues and are more likely to be generalists, as opposed to relying upon specialists for support. In addition, public safety concerns vary, with smaller departments having less concern for violence and gang violence, although this trend seems to be changing. Despite these similarities in core policing functions, there is considerable variation across small and rural police agencies, with tribal agencies often dealing with the unique challenges of being small, rural, and tribal.

The public safety challenges across Indian Country are by no means uniform; they vary widely between and among districts and tribes based upon unique conditions, a complex set of legal jurisdictional issues, geographic challenges, differences in tribal cultures, and the number of tribes and reservations within a particular district.<sup>3</sup>

One of the most formidable challenges in keeping tribal communities safe is building adequate law enforcement systems. Barriers to the development of effective law enforcement include, but are not limited to, staff shortages, high caseloads, underpaid officers, underfunding, hostile relationships with communities, delayed response times, inadequate law enforcement officer to population ratio, and lack of training.<sup>4</sup> Various statutes and provisions of case law make jurisdictional determinations extremely difficult. Although the Bureau of Indian Affairs (BIA) has encouraged cross-commissioning so that federal, tribal, and state authorities can make arrests for each jurisdiction to simplify some of the confusion, this too, has created its own host of issues and challenges.

Given the complications and challenges that face many tribal police agencies, the need for a well-defined set of guidelines for the introduction, implementation, and ongoing maintenance of a body-worn camera (BWC) program is vitally important. The purpose of these guidelines is to provide a broad framework which decision-makers should take into consideration during the development stages of a written directive.

<sup>3</sup> Ibid.

<sup>4</sup> VAW Resource Center. "Highlights from the Not Invisible Act Commission Report: Tribal Law Enforcement Agencies." NCAI Foundation (2023).

Whenever possible, these guidelines will provide the current thinking and universally accepted best practices when it comes to the deployment of BWCs. Developing a BWC policy and set of procedures should be integrated with the ongoing practices of the department, and therefore subject to change over time. BWC policy development and implementation must be purposeful, deliberate, and designed to support and facilitate ongoing operational issues, as well as serve as a bridge to the community.<sup>5</sup>

## Purpose and Scope

The purpose and scope of these guidelines is to outline broad parameters and recommendations intended to provide a suggested pathway for tribal law enforcement officials. These guidelines may assist in developing or redrafting a written body-worn camera (BWC) policy, as well as in providing insights about how those written directives may be implemented.

## Policy Statement

A policy statement should identify the core guiding principles of the agency and how those principles apply to the establishment of the overall BWC guidelines. The policy statement should establish clear links between BWCs and the specific mission of the agency. The BWC program should define actions that are prudent, expedient, and advantageous to the organization. Often this is where the agency can communicate the values of the organization and the standards by which it will hold itself.

<sup>5</sup> We recognize that there are different titles for law enforcement officials in Indian Country. We use tribal police chief, tribal agency executive, or tribal law enforcement official interchangeably in this document.



## Early Planning and Pre-Implementation

Planning and developing pre-implementation processes are key to a successful BWC program. Police leaders should take the time to garner support for the deployment of BWCs from officers, regardless of rank or tenure. These officers are expected to integrate this technology into their daily work activities. In addition, external stakeholders have equally vested interests in how these cameras will be used. Awareness is key in not only ensuring that officers are acting within prescribed protocols, but also in illustrating how the footage from these cameras will be used to promote greater transparency and accountability and in addressing any privacy concerns of the tribal police agency, its officers, and the community

Who should be brought into the early discussions and planning process?

- The tribal council, tribal agency executive, the tribal legal counsel, and/or governing authorities should be involved from the outset, prior to the actual planning phase. What are their concerns? What will their role be in having access to video and/or control over the BWC program?

### EXAMPLE:

*“The purpose of this policy is to provide officers with guidance on the proper use of body-worn cameras, portable audio recorders, and in-car video systems, and on the proper storage, management, and use of the data and metadata recorded on that equipment.” Santa Clara Tribal Police Department.*

- Officers, supervisors, and command staff should be involved, and their input considered concerning the implementation and overall operational issues of BWCs. They should also be consulted about the equipment to be used, considerations of when cameras are to be activated, and the disposition of the footage they produce.
- From a tribal community standpoint, how does the agency go about seeking input from the community, particularly in those areas where geographic size and remoteness of its residents presents a communication challenges?

- Communal advocacy groups and social service providers should be consulted as part of the planning process.
- Criminal justice partners (federal authorities, county and municipal law enforcement, and prosecutorial bodies on the federal, state, local, and tribal levels) should be brought into the discussions early in the planning process. In some instances, this level of collaboration may be problematic given the historical relationships that persisted over time.
  - Some tribal agencies have harmonious and effective relations with federal, county, and local criminal justice agencies, while others do not. For those in the latter category, this collaboration may require a series of internal conversations within tribal communities, before a decision can be reached.
  - In that case, who within these tribal communities initiates those conversations and who will make the final call?

As the chief executive works through the plan of introducing a BWC program, what working groups and advisory bodies should be formed to formulate and facilitate the development of operational guidelines?

What level of involvement should a cross-section of the police agency employees take part in the vendor testing and selection process?

What level of involvement should there be among the officers in formulating department policy and procedures? How will BWC footage be utilized both in providing added protections to the officers and in assessing performance assessments? What are the disciplinary implications if footage shows problematic behavior?

### EXAMPLE:

*“Personnel shall utilize this device [BWC] for their protection by recording contacts with the public.” Morongo Band of Mission Tribal Police Department, SOP #2000.3*

Who should be involved in assessing and providing the technological requirements of the BWC system? Tribal agencies may not have the internal technology support that larger or more well-resourced agencies do. Should the agency solely rely upon the advice and guidance of the selected vendor(s) or should there be other outside expertise brought in to assess and recommend many of the potential technological hurdles that an agency will need to overcome to maintain the BWC system?

- What resources, which include personnel, funding streams, and knowledge of technology should be considered?

What are the legal implications that need to be considered both from the tribal community perspective and those of the prosecutor(s)? Often the legal requirements of different jurisdictions may conflict with one another. Consultation of the tribal legal counsel is extremely important in the early stages of policy development.

When deciding on the storage and retention logistics, a tribal police chief should first consider if these logistics and guidelines adhere to the tribe's transparency laws and ordinances. Further issues for consideration should be about who owns the video footage (agency or vendor), where it will be stored (in-house storage or cloud storage), and who manages the storage, security and maintenance of those systems. Guidance about BWCs in general can be found in the Police Executive Research Forum (PERF) report, *Body-Worn Cameras A Decade Later: What We Know*. Guidance on storage retention is highlighted on page 46 of that report.



## Operational Considerations

Among the main considerations that a tribal agency will need to address is the overall perception that BWCs will provide a useful tool for their department. The perceived benefits that BWCs offer - capturing a video recording of critical incidents and encounters - are thought to largely outweigh the potential drawbacks. Among the key considerations is whether the introduction of this technology will help to strengthen greater accountability, transparency, and provide greater legitimacy for the department, thereby enhancing trust between tribal officers and the community.

In addition to serving as a bridging tool between the tribal agency and the community there are operational considerations. These include the use of BWC footage to:

- Augment the collection of evidence and documentation of crime scenes;
- Reduce the number of citizen complaints;
- Resolve citizen complaints which otherwise are not substantiable or inclusive;
- Serve as an important teaching aid toward enhancing training experiences;
- Document critical incidents for post-incident debriefings; and
- Promote professional development and growth among police personnel.

When deploying BWCs, there are a series of fundamental questions which first should be decided upon:

- What types of officers will use the cameras within the agency (e.g., only patrol or all officers)?
- When, where, and how will the cameras be used?
- What type of video management system makes the most sense?
- Are there operational challenges that must be addressed before deployment, such as fundamental information technology (IT) infrastructure to support the BWC system?
- Are there opportunities and benefits for the integration of the BWC camera system with other IT technologies (such as in-car video systems)?

- Are there unique geographical considerations which must be taken into consideration (such as mountainous areas or vast stretches of land where internet connectivity or radio communications are lacking)?
- How will the BWC program be incorporated into the overall operations of the tribal agency so that it provides further enhancements and augments current operational needs?
- Who will be responsible for overseeing and managing the BWC program?
  - Are there sufficient resources in place or will additional staff be needed?
  - Are there other partners both within the tribal community or among other agencies who will be able to support the overall management and security of the stored video?
  - Will these partners support the production and redaction of video to be released; retention and deletion of video to effectively control storage space; maintenance, repair, and replacement of BWC equipment, and related internal operations of the BWC program?

## Administrative Oversight and Utilization of BWCs

With the introduction of BWCs comes a whole host of administrative decisions regarding the technology's integration into the department's overall operations, alignment with the department's core values, furtherance of its operational mission, and effective utilization to achieve established goals. In some instances, research has been helpful in identifying successful practices. On the other hand, some of the research has yielded mixed results. Context and deployment are important as it is clear there is no one-size-fits-all or any singular pathway forward. Nevertheless, there are several key policy decisions that will need to be developed in providing officers the allowable parameters on the use of this technology.

Although there are clear potential benefits associated with the use of the BWCs, both from the public and officers' perspectives, there are some challenging policy decisions which require a balancing of public's interest and those of the agency and of police officers themselves. There will be policy decisions that require

a balancing between promoting greater transparency, while preserving privacy interests of individuals and police officers. Issues will arise concerning balancing the public's right to know and what will need to be withheld from the community, e.g., to protect the tribe's sovereignty as well as the integrity of an investigation, and for how long.

The implementation of a BWC program requires significant investment. The cost of purchasing the devices and storing the footage, along with the challenges of managing video data, can be cost-prohibitive for the police department. In a resource-strapped community, these budgetary constants can end up limiting the accessibility and effectiveness of BWCs. The operational costs to follow in subsequent budgeting cycles can be even more daunting. Planning and early efforts to implement BWC programs should be undertaken with recognition that BWC technology and the digital-evidence ecosystem will continue to evolve.

The discretion officers have in activating and deactivating BWCs carries with it a risk of accusations about selective recording practices. Instances where cameras are intentionally turned off to avoid documenting contentious interactions can lead to charges of manipulating of evidence that erode public trust. It is therefore important to ensure that body-worn cameras are used consistently and transparently, to maintain their integrity as tools to ensure accountability.

The issue of trust is also a factor: when used effectively, BWCs can serve as a bridge to the community as they foster a sense of security and confidence in the police from the community perspective. When there is tangible evidence of officer interactions and openness in the officer's decision-making processes, the public is more likely to view an officer as being accountable, transparent and willing to be part of the community.

Overall, the pros and cons of BWCs illustrate the complexity of integrating technology into a department's practices. While these BWCs offer numerous benefits, including increased accountability, transparency, and valuable evidence for legal proceedings, they also raise challenges, such as privacy concerns, budgetary constraints, and the need for a comprehensive policy framework. The impact of BWCs on public perception – balancing trust with concerns over surveillance – highlights the delicate relationship between a police department and the community it serves.

## Administrative Considerations

Tribal police chiefs should consider the following administrative questions as they create their policies and implement a BWC program.

- What are the perceived and intended benefits of the BWCs to officers? How will the cameras enhance officer safety, protect officer rights, enhance collection of digital-evidence, and improve overall working conditions?
- What are the perceived and intended benefits of the BWCs to the tribal community? How will the use of BWCs be used to provide more transparency, accountability, and build trust among the community it serves?
- What are the perceived challenges that will be encountered from the line-officers when it comes to performance assessments, monitoring of officers in their work environments, privacy issues and concerns, restrictions in the use of the cameras, limitations on officer's discretion, and disciplinary implications?
- What are the operational considerations that need to be considered when it comes to the maintenance of the cameras and the overall operations of the BWC system? How, when, where, and how often do officers download their BWC video?
- What are the backroom operations of BWC video when it comes to responding to public records requests, access to video (from outside of the agency), redaction, preparation of video for prosecutors, preserving security of the system, maintaining retention and destruction of videos, etc.?
- Who will review BWC videos? How often will reviews occur? What is the purpose of those reviews (auditing BWC use, assessing officers' performance, training applications, policy compliance, etc.)?

## Activation / Deactivation of BWCs

- When are officers expected to activate their cameras? Are they afforded discretion when to activate their cameras? What are the situations and events when officers are required to activate their BWCs? What are the events and conditions under which BWC should not be activated.

### EXAMPLE:

*"Officers assigned and equipped with body worn cameras shall activate them as follows: 1. Mandatory Activation: Unless an exception applies, officers shall activate their BWC when an encounter is reasonably anticipated to result in enforcement action ..."* Navajo Police Department's General Order, G.O. #100-(1)

- In situations when officers are required to activate their cameras, at what point in the situation are the cameras to be activated (e.g., at the time of dispatch for a call for service, arrival at the scene, at the point of contact, etc.)?
- When are officers permitted to deactivate their cameras (e.g., at what moment is an encounter or incident considered to be completed)?
- Are there points in times/situations when an officer may interrupt the recording of the situation (e.g., when privately consulting with another officer on tactics)? Are there times when an officer is permitted to mute the audio portion of the video recording?
- What are the procedures an officer should follow when a situation hasn't been recorded, the recording has been interrupted, when requested not to record, etc.?
- What are the auditing practices in place to monitor whether officers are adhering to activation/deactivation policies?

## Data Storage / Retention

- What are the protocols to be followed when officers are downloading their BWC footage?
- How often are officers expected to download their footage?
- What are the procedures to be followed for officers tagging video sequences so that they are searchable and easy to retrieve when needed?
- What are the safeguards in place to protect stored BWC footage, both in terms of its preservation and the prevention of unauthorized access or tampering?
- Who in the agency is responsible for assessing and responding to public records requests? In terms of responding to criminal matters or responding to a prosecutor's request, who should that person consult with?
- What are the redaction procedures to be followed prior to the release of BWC footage in response to public records request?
- Who is responsible for the retention and elimination of BWC footage in accordance with the prescribed retention schedules?

## Privacy Issues and Concerns

- What are the privacy protections and considerations that officers must observe when it comes to the use of BWCs?

### EXAMPLE:

*"Patient Privacy – Officers utilizing BWCs shall not record patients during medical or psychological evaluations by a doctor or similar professional during treatment, unless required by evidentiary criminal purposes..." Leech Lake Tribal Police Department (MN) Directive #1004-V (H.6)*

- Are there situations when a person who is being recorded may request not to be recorded? And if so, what is the agency's policy when it comes to honoring these requests? How should officers accurately record that the camera is being deactivated in response to the request from the party being recorded?
  - Other considerations may also include input from general councils, executive councils, or tribal council meetings. Given the nature of these "advisory bodies," internal discussions relative to the permissibility of video/audio recording should always be considered. This system of "advisory councils" will vary from tribe to tribe.
- Are there certain times or situations when an officer should not be using his/her BWC (e.g., in courthouses, hospitals, communal meetings, schools, religious or cultural ceremonies, etc.)? Are there exceptions to these guidelines? If so, what are they?
- Does an individual have a right to insist that the encounter not be recorded? Are there exceptions to those situations?
- What are the privacy protocols to be followed when attending tribal events, ceremonies, or other social gatherings? Are there any exceptions which would supersede those protections?
- What are the privacy protections afforded to individuals when in a private home? Are there any exceptions to those protections?
- What are the protocols to be followed if an officer does record a situation or encounter which should not have been recorded?
- Is there an existing process for addressing community and cultural concerns that might be referenced if BWC deployment practices raise concerns within community.

- Are there specific situations when officers should not be recording certain encounters (e.g., interviewing crime victims, sexual assault victims, juveniles, etc.)?



## Viewing BWC Video

- Are officers permitted to view their BWC video prior to writing their reports?
- Are officers allowed to review video prior to submitting to administrative interviews?
- May officers review their BWC footage for the purposes of recalling statements made during an investigation?
- Are there situations when officers are not permitted to view their BWC video prior to writing their reports? E.g., after a critical incident?
- If officers are not permitted to review video, either in specific circumstances, or in general such as writing their reports and/or submitting to administrative/investigative interviews, are there provisions made to review the video afterwards and supplement or amend their accounts?

### EXAMPLE:

*Example: "Officers will have access to review the recordings when preparing written reports or statements of events to help ensure accuracy and consistency of the accounts." Catawba National Tribal Police Department (SC) Policy #800.08 – V.D. (12)*

- Are officers permitted to review the BWC footage taken by other officers? Are there prohibitions in place for officers not to share BWC footage with others?
- In the event of a citizen complaint, who reviews the BWC footage? (e.g., supervisors at the time of complaint, administration, etc.)?
- When a citizen complaint is made, can the complainant review the BWC footage at any point of the investigative process (e.g., at the time of intake, during the investigative process, as part of the conclusion of the investigation, etc.)?
- Is there an oversight body (i.e., tribal council) who can review police BWC video? If so, are there specific situations or events when this may be done? What are the protocols for notifications and reviewing procedures?

- While the tribal council may not be bound by the same rules or considerations of preserving privacy rights or maintaining the integrity of an investigation, an alternative may be to provide an added layer of protection for the public release or sharing of BWC video by creating a "law & order sub-committee, police commission, or a "law and order executive."
- In terms of sharing BWC video with other criminal justice partners, are there certain situations where the tribal community would not want certain video recordings shared with outside agencies, given the religious, governing, cultural, or ceremonial nature of the video?
- Will audits be conducted to assess policy compliance? If so, what are the procedures that are followed? Who performs those audits and how frequently?
- What are the additional protocols to be followed when an officer is involved in a critical incident (e.g., officer-involved shooting, use-of-force, pursuit, in-death custody, etc.)?

## Investigative Protocols

- How will footage from BWCs be used in documenting investigations and compiling evidence?
- When officers are investigating an incident, are there specific processes the officer should be recording?
- What is the department's policy when it comes to recording interviews of victims, witnesses, and/or juveniles? Are there specific situations when an officer should not be recording the interview? Does a victim and/or witness have the right to request that an interview not be recorded?
- How are statements and/or recordings being safeguarded for protection and preservation purposes? Are those portions of the BWC footage to be tagged or categorized in a specific way?
- What are the notification procedures to be followed in alerting the prosecutor with jurisdiction of the existence of statements and recordings of evidence?
- What new chain of custody concerns are raised with digital evidence?

- What are the procedures to be followed when downloading segments of BWC footage which contain statements and/or evidence collection?
- How can segment of BWC videos with evidentiary value be identified (e.g., through “bookmarking”)?
- Are there different protocols to be followed depending upon the court of jurisdiction, with respect to federal, state/local, and tribal courts, in addition to considerations for civil versus criminal?
- What is the best way to ensure that BWC footage is reviewed for performance in a constructive manner, as opposed to a punitive or ‘gotcha’ manner?
- Will BWC recordings be used in community meeting settings to demonstrate officer performance and to educate the public on tribal police operations?
- Who should be responsible for training officers on different topics? Do agency staff, BWC vendors, or other groups train officers how to use BWCs (e.g., activate, upload data, test/troubleshoot)? Who should train officers on tagging videos, on policy content, and relevant laws?

## Assessing Officer Performance

- Will BWC footage be used in monitoring and/or assessing officer performance? If so, how will that be done?
- Will officers’ direct supervisors review and assess an officer’s performance, or will that task be assigned to someone outside the officer’s direct chain of command?
- Will BWC footage be used as part of the officer’s performance assessment and/or during counseling sessions?

## Use of BWC Footage for Training

- What are the training requirements for officers prior to the use of BWCs? For example, who does the training? How many hours are required? What is covered? These questions are important for in-service and recruit training.
- Will there be follow-up training to take place to be sure officers are kept abreast of any changes to operational procedures and/or changes to the technology?
- Will BWC recordings be used as part of the department’s training program? If so, how will they be used? Who will be responsible for identifying the videos to be used and in what context?
- Will BWC recordings be used at part of employee counseling or professional development processes? Who will identify the videos to be used?

## Public Notification / Release

- Taking into consideration the various legislative and/or regulations concerning the release of BWC video to the public as a notification process, how has the department communicated its policy to the public as to what circumstances BWC video will be made public? Does the policy specify what exceptions exist?
- Who should the agency consult with prior to releasing BWC video to the public (e.g., tribal council, legal counsel, prosecutor with jurisdiction)? Considerations should take into account whether certain tribal governing, ceremonial, or cultural events should be protected from the input of those judicial partners (if legally permissible)?
- Are there protocols in place to consult with the parties involved and/or their families prior to the release of BWC videos to the public and media outlets?
- When releasing BWC videos to the public and the media, what form of editing and/or commentary will accompany the BWC videos?
- Given the geographic challenges and remoteness of community members, who will the agency distribute BWC videos to in way to assure sufficiently broad coverage?

- How has the agency communicated and consulted with the key stakeholders in the development of its public notification policy (e.g., community groups, advocates, prosecutors, federal oversight bodies, etc.)?
- In terms of BWC release to the public/public notifications, what are the controlling guidelines in releasing BWC footage for officer-involved critical incidents?
  - Who should be consulted prior to the release of BWC footage?
  - What protocols should be implemented to ensure proper respect of the privacy concerns for the parties involved and/or their families (particularly in the event of a death)?
  - Are there legislative requirements and/or judicial rulings for BWC footage evidence as it pertains to the release of BWC footage? If so, what are those requirements?
- Within the policy guidelines, tribal police should consider what happens when multiple law enforcement agencies are involved. Whose protocols will be followed?
- Are there competing interests among the courts pertaining to jurisdictional and/or prosecutorial concerns that need to be reconciled?

## Tribal Law Enforcement Interaction with Other Entities of the Criminal Justice System

Tribal law enforcement agencies have different criminal justice entities that they must work with. Because of jurisdictional differences driven by federal, state, and local laws across the United States, tribal police face a myriad of interactional issues and collaborative hurdles.

The laws and regulations which govern the roles, responsibilities, and scope of policing powers of tribal law enforcement agencies are complex, and in some cases have a direct bearing on how BWC footage may be handled, preserved, and transmitted outside of the agency. All these considerations should be clearly delineated within the agency's written guidelines so that BWC footage meets the requirements of those external criminal justice system partners.

More broadly, the guidelines developed by an agency should consider critical decision points involving the overall use of BWCs, the program's overall internal processes, and the handling and preservation of body-worn camera footage. Some of the basic considerations are:

- Limits on the use of BWC's, for example, restricting its use to law enforcement purposes only.
- Prohibitions of unauthorized use of body-worn cameras by its officers (i.e., situations or circumstances when officers are prohibited from recording, such as, in private homes, schools when children are present, hospital settings, situations where individual's rights to privacy or civil protections could be infringed upon, cultural ceremonies, or special legal settings, like courtrooms or lawyer's offices).
- Requirements concerning the training of agency personnel (both sworn staff and non-staff having access to or handling BWC footage) in the use and guidelines associated with body-worn cameras.
- Situations or circumstances when officers are required to activate/deactivate body-worn cameras.
- Situations when officers are afforded some latitude of discretion as whether to activate/deactivate body-worn cameras.



- Direction on the use of BWCs when a situation involves the recording of victims, witnesses, or suspects – including special considerations for domestic violence, sexual assaults, and recording of juveniles (victims/offenders).
  - The documentation of when officers have used BWCs, or when they were not activated, interrupted, or muted, when otherwise required.
  - The labeling or tagging of footage to associate the BWC footage with relevant criminal investigations or other law enforcement actions.
  - The processes to follow when BWC footage is to be uploaded into the video management system, safeguarded, and preserved.
  - Policy considerations for when and how BWC footage may be released, transferred, or transmitted to other agencies, the media, and/or the public (community or individual parties).
  - Policy considerations when it comes to allowing officers to review their own BWC footage when either preparing their own reports or giving statements before an investigative body; and
  - Special considerations which are unique to the agency and its overall operations due to the remoteness of officers, infrastructure restrictions, or other operational challenges.
- Ownership of any BWC footage stored by a vendor (e.g., agreements should make clear that any such footage is owned by the tribal agency or council, depending upon governmental structure of tribal community and not the vendor) and the process for turning over ownership of footage to another agency.
  - Standards for documenting, categorizing and/or tagging recordings, delivery and storage.
  - A designated department liaison(s) to coordinate exchange of information with the other agency(s) regarding any issues related to the BWC footage.
  - Coordination of public records requests involving another law enforcement agency.
    - Retention policies.
    - Protocols for releasing video to the community.
    - Allocation of redaction and transcription responsibilities.

While many tribal police agencies are reliant upon the collaboration and support of other law enforcement agencies, such as a neighboring sheriff's office or other governmental agencies, such as environmental protection agencies, the use of BWCs may serve as value-added tools when it comes to investigating violations of the law in which those other agencies may have mutual interest. Given the documentary and evidentiary value that BWC footage may represent, a tribal police agency should consider incorporating the use of their BWC program into a memorandum of understanding (MOU) with those other agencies. Some topical issues that might be important to include in an MOU could be:

- Notification of the existence of BWC recordings and the process for accessing those recordings.
- The terms of BWC access by other law enforcement agencies from the BWC vendor and the allocating responsibility for any associated costs.





# Resources

## Documents

Police Executive Research Forum (PERF) (2023). "Body-Worn Cameras A Decade Later: What We Know." Washington, D.C.: Police Executive Research Forum.

[Read it Here](#)

U.S. Department of Justice, Bureau of Justice Statistics (July 2023). "Tribal Crime Data Collection Activities, 2023."

[Read it Here](#)

U.S. Department of Justice. Bureau of Justice Assistance (2021, January 31). "Chapter 3. Rural and Tribal Law Enforcement." Deliberative and Pre-decision Paper. Updated January 13, 2021.

[Read it Here](#)

VAW Resource Center. "Highlights from the Not Invisible Act Commission Report: Tribal Law Enforcement Agencies." NCAI Foundation (2023).

[Read it Here](#)

## Tribal BWC Policy References

Select the policy below to jump to each document.

[Alaska Village Public Safety Office](#)

(VPSO Program, Standard Operating Procedures Manual)

[Catawba Nation Tribal Police Department Policy](#)

[Leech Lake Tribal Police Department Policy](#)

[Morongo Band of Mission Tribal Police Department Policy](#)

[Navajo Police Department Policy](#)

[Santa Clara Tribal Police Department Policy](#)

[Yavapai-Apache Police Department Policy](#)



# About the Authors

**Robert Haas, M.A.** is a retired Police Commissioner with extensive experience in policing reform measures, operational assessments, and community engagement. Following his retirement after serving 40 years in policing, Robert spent the next five years in the consulting arena, which included two years as a Vice President, Law Enforcement Consulting with Hillard Heintze.



For nine years, Robert served as the Police Commissioner for Cambridge, MA. Prior to his commissioner's post, he was appointed by then-Governor Mitt Romney to serve as a member of the cabinet as Massachusetts' Secretary of Public Safety. Robert holds an M.A. in criminal justice administration from Rutgers University, as well as a B.S. from William Paterson College of New Jersey.

**Craig D. Uchida, Ph.D.** is the President and Founder of Justice & Security Strategies, Inc. (JSS). He is a criminologist with interests in law enforcement, the criminal justice system, and community-based efforts to reduce violent crime. He is the author of numerous journal articles, government publications, and monographs. His most recent publications examine body-worn camera footage and how it is used for critical incidents by police and how footage is used as data by researchers. Craig received his doctorate in criminal justice from the University at Albany and holds two Master's degrees, one in criminal justice and one in American history.

**Delaney Falsken** is a Program Coordinator with Justice & Security Strategies, Inc. She works with JSS research teams to plan and implement evaluations, conducts literature reviews, analyzes data, and assists with administrative tasks. She holds a Bachelor's degree from UCLA in Psychology.

**David J. Rogers** is currently enrolled with the Nez Perce Tribe of Idaho and is related to the Winnebago and Lakota. He has 45 years of experience in the criminal justice field, with 20 years in policing. He has worked as a Patrolman, Lieutenant, Captain, Under-sheriff, and Chief of his own Nez Perce Tribe Police Department for 3 years. He is also the Missing and Murdered Indigenous Persons Coordinator for the US Attorney's Office in Washington State.

Dave also served as a Probation Officer and Court Commissioner for the Clark County District Courts in Vancouver, Washington for 9 years. He also served as the Tribal Training Program Manager for the Western Community Policing Center followed by the Criminal Justice Center for Innovation at Fox Valley Technical College for 13 years, providing a large variety of training including Community Policing on behalf of the COPS Office. During this time, David created the National Indian Youth Police Academy and the Tribal Probation Academy.

DEPARTMENT OF PUBLIC SAFETY OPERATING PROCEDURES MANUAL		
CHAPTER 241	MOBILE AUDIO AND VIDEO RECORDING	
	Effective: 5/01/2023	Commissioner Approval: 
	Authorities: <a href="#">AS 01.10.060(a)(7)</a> ; <a href="#">AS 18.65.050</a> ; <a href="#">AS 18.65.080</a> ; <a href="#">AS 18.66.160</a> ; <a href="#">AS 18.70.020-030</a> ; <a href="#">AS 22.20.100-120</a>	
	Applicability: ALL DEPARTMENTAL EMPLOYEES	
	Special Instructions: <a href="#">Click here to enter text.</a>	

### 241.100 INTRODUCTION

- A. Purpose.** The purpose of this policy is to provide guidance regarding the use of mobile audio and video recording equipment (MAVR) that includes hand-held devices, body-worn cameras and vehicle equipped video devices. It does not prohibit the use of other DPS issued recording devices in conjunction with video or cameras.
- B. MAVR limitations.** DPS recognizes that MAVRs provide only a two-dimensional perspective with limited vantage points of an incident. Consequently, no employee will ever rely solely upon the review of video recordings as the basis for discipline against an employee. Instead, DPS shall review and consider all available evidence (including witness statements, employee interviews, forensic analysis, documentary evidence, etc.), prior to imposing discipline against an officer. There shall be no use of artificial intelligence (AI) to review MAVR footage.
- C. Other relevant chapters.** This policy does not govern the use of recording devices in connection with undercover operations or surreptitious recordings of DPS employees under OPM Chapters 222, 226 and 101.360(W). The use of DPS MAVR devices shall be in accordance with OPM Chapters 101.360, 118, 203, 212, 235 and 236.

### 241.300 USES

- A. Proper use of MAVR devices.** While on duty, officers shall make every effort to record with MAVR devices their interactions with the public during traffic enforcement, citizen complaints, arrests, situations that the officer believes would generate an incident in ARMS, or other situations where the officer believes it would be beneficial to have a digital recording.
- B. Off-duty.** DPS MAVR devices shall not be used while off-duty unless an officer initiates an incident due to emergency circumstances or witnessing criminal activity.
- C. Activation amnesty.** No officer will be subject to discipline for failing to activate the camera for any reason for the first month or sixteen (16) shifts, whichever occurs later, after he or she is assigned to wear a MAVR.

### 241.310 OBJECTIVES

**Primary objectives.**

## CHAPTER 241 MOBILE AUDIO AND VIDEO RECORDING

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1. To enhance officer safety.
2. To preserve visual and audio information of scenes, events, and statements for use in current and future investigations.
3. To enhance the officer's ability to document police-citizen contacts, arrests, and critical incidents.
4. To enhance the accuracy of officer reports and testimony in court.
5. To provide an impartial measurement for evaluation during officer training, self-critique, coaching, and mentoring.
6. To enhance the agency's ability to review probable cause for arrests.
7. To enhance the public's trust by accurate representations of officer-public interactions in the form of video and audio recordings.

### 241.320 PROCEDURES

- A. *Only DPS issued recording equipment is to be used.*** In the event of the technical malfunction (dead battery, user bumped the switch off, or other technical failure) of a DPS issued device, an alternative device may be used on a limited basis.
- B. *Manufacturer's guidelines.*** Recording equipment shall be operated in accordance with the manufacturer's guidelines and DPS training and policies.
- C. *Activation of MAVR devices.*** Officers shall begin recording as soon as practical during a given situation and continue to record until the completion of the event, to include the recording of statements. Activating the recording prior to contacting the public is recommended.

When recording using a personal audio recorder or other recording device that does not capture meta data, if feasible, the officer will state their name, date, time, and information related as to the purpose of the recording. This information aids in later identifying the correct recording file once it is uploaded or copied.

- D. *DPS property.*** All captured information (data, images, video, audio, and metadata) is the sole property of DPS. Accessing, copying, or releasing recordings by unauthorized employees to non-law enforcement personnel or for non-law enforcement purposes is prohibited. Members of the public and other entities may gain access to MAVR recordings through the Alaska Public Records Act and discovery in criminal, civil, and administrative proceedings.
- E. *Training.*** DPS-approved training is to be completed prior to using video recording devices in an effort to ensure proper device use and operation. Additional training may be required at periodic intervals to ensure the continued effective use and operation of devices and compliance with this policy.
- F. *Inspections.*** Officers shall inspect their MAVRs for any physical damage and to ensure the devices are fully charged, powered and operational.



**G. *Supervisor notification.*** Malfunctions, damage, loss, and thefts of MAVRs as well as issues with the devices are to be brought to the attention of a supervisor as soon as reasonably possible so that a replacement device may be procured.

**H. *Failed recording.*** If an officer fails to activate their MAVR device or a technical malfunction occurs, the officer will document in the incident report, or in their trooper notebook if there is no ARMS incident, the reason a recording was not made. A technical malfunction is not grounds for corrective or disciplinary actions. If, however, after the activation amnesty period, a supervisor finds a pattern of an officer failing to make recordings as specified above, that may result in additional training, corrective action or discipline.

**I. *Interview room and telephone contacts.*** MAVRs do not need to be utilized when other digital recording methods are being used during interviews that take place in an interview room equipped with operational video recorders, or, when audio/electronic devices are being used for telephone contacts and interviews.

**J. *Recording interruption.*** If an unintended interruption occurs in the recording, the officer will document the reason for the interruption in the incident report. If an officer feels it is necessary to stop recording, the officer will verbally indicate their intent to stop recording before stopping the device, and upon reactivation of the recording device, state that the recording was restarted and the time.

Employees are authorized to remove their MAVR device or power them off in situations during:

1. Communications with other police personnel or government employees where facts and circumstances of a criminal case are being discussed;
2. When on break or otherwise engaged in personal activities;
3. In any location where the employee has a reasonable expectation of privacy, such as an employee restroom or locker room, or their personal residence;
4. Communication with persons with whom the officer has a privileged relationship (e.g., attorney, spouse, clergy member, therapist, employee's medical or union representative).

**K. *No expectation of privacy.*** While it is generally implied that words and/or actions performed in the presence of a police officer have no expectation of privacy, if a person asks, the officer will inform the person they are being recorded. If the officer discloses that a recording is running, and a person requests deactivation, the officer will inform the person that DPS policy requires recording of contacts, unless otherwise prohibited by this policy.

**L. *Documentation of recordings.*** The person who creates a recording is to note in the written incident report narrative, citation, or written warning narrative that the recording was made. If the person is not able to prepare a written incident report (i.e. injury, absence, etc.), the member's supervisor should assign that task so a report is completed without unnecessary delay. Recordings are not substitutes for written reports.

**M. *Recordings to be preserved.*** Recordings made that relate to a criminal prosecution shall be saved, copied, and logged properly into Property & Evidence and retained according to the [State of Alaska Records Retention and Disposition Schedule](#) for DPS. Recordings made in connection with traffic stops that result in issuance of a citation and are not criminal in nature, and that are not relevant to reasonably foreseeable or pending civil litigation, are to be retained until final adjudication of the traffic case. All other recordings of citizen contacts that are not preserved in Property and Evidence are to be uploaded, saved, and filed at the appropriate, approved storage location for the officer and preserved for at least 180 days. After 180 days, the event will be automatically purged from the storage location unless litigation is pending or future litigation is reasonably anticipated and the files will be relevant to that litigation. Because storage of such evidence requires significant state resources and it is not feasible for officers to determine whether litigation is reasonably foreseeable with respect to every preserved recording, DPS adopts the following guidelines for when an officer should reasonably anticipate litigation. An officer should reasonably anticipate litigation if the officer is notified of a request from a state agency, state employee, or a third party to preserve the evidence for use in a potential criminal or civil suit or if the recording may be evidence of an injury or of conduct that could be the basis for a claim or defense in a legal action against DPS or the State of Alaska (examples of situations that could be the basis for a claim or defense include when the driver makes a false accusation or if the driver falls on an icy state road). The general deadline (“statute of limitations”) for filing a civil lawsuit against an officer or the department is two years following the date of an event. [AS 09.10.070](#). Otherwise, consult the Department of Law to determine how long to retain the recording. If an existing recording that is subject to a Public Information Act request is received, the recording must be retained until it is provided without redactions or all opportunities to appeal the denial of all or part of the recording have been administratively and judicially exhausted.

**N. *Recording distribution.*** Recordings are not to be copied, shared, or otherwise distributed outside standard interagency routing and distribution practices without prior authorization of a Detachment Commander.

**O. *Training opportunities.*** Recordings that may be of value for training purposes should be brought to the attention of a Detachment Commander. Such recordings are to be handled in a manner that protects the integrity of investigations, criminal prosecutions, civil litigation, and administrative actions. Generally, recordings may be used for training purposes only after all investigations, litigation, and administrative matters are closed. Additionally, prior to any recordings being used for training purposes, the Detachment Commander will notify all involved officers. If an involved officer objects to the use of the recording for training, the Detachment Commander will determine whether other training resources exist that serve the same purpose. Only in circumstances where there is no other reasonable training resource should the recording be used for training over the objection of an involved officer. If an involved officer objects to the use of the recording for training, then the recording shall not be used.

**P. *Deadly force review.*** A commissioned member involved in a deadly use of force incident, whose actions were recorded, shall not be allowed to review the recording(s) prior to their formal interview. The formal investigative interview will adhere to the provisions set forth in OPM 118.620. PSEA members are reminded of Article 7.03 (A) of the Agreement.

**Q. *Maintaining evidence.*** Unless appropriate to further an investigation, non-authorized civilians shall not be allowed to review recordings at scenes.

**R. *Inadvertent and innocuous recordings.*** When it's discovered that a recording continued to capture a private circumstance (i.e. utilizing the restroom) unrelated and innocuous to the evidentiary value of an incident, a redacted copy removing the recording of the private circumstance may be provided where state attorneys are made aware of the content of the redacted portion and the redaction is documented.

**S. *Pre-event capture.*** Pre-event recording is a feature that allows the MAVR to capture footage for a pre-determined amount of time prior to the activation of the camera (e.g., the time period the camera records to memory prior to the camera being turned on). Pre-event recording time will be sixty (60) seconds of video only.

**T. *Live view activation.*** Live view features may be employed during extenuating circumstances only. Live view activation requires Division Director or Detachment Command approval will be required but may be waived for number one (1) below for activation. An officer shall be notified via radio or cellular communications, when available, that their MAVR is being accessed for live view. Live view is authorized in the following situations:

1. Officer not answering welfare checks on either radio or cellular communications and there is concern for the officer's safety;
2. SERT incidents, with consent of SERT commander;
3. Felony level crimes in-progress; or
4. Other circumstances deemed necessary by the Division Directors.

**U. *Recording after the act (RATF).*** A recording after the fact (RATF) shall not be made absent Detachment Commander approval. When such approval is given, the employee and association will receive notification prior to the creation of the RATF. No RATF shall be made prior to the member and Association receiving notice of the complaint pursuant to Article 7.02 of the Agreement. Any RATF that contains activities outlined in 241.320(J)(1-4) shall be redacted in accordance with section 241.320 (R).

**V. *Mounting of MAVRs:*** MAVRs shall be mounted to the outermost garment on the upper portion of the officer's torso area. MAVRs shall be worn in such a manner as to ensure the optimal unobstructed view of the officer's interactions.

### 241.330 PUBLIC DISSEMINATION

**A. *Alaska Public Records Act requests for MAVR recordings.*** MAVR recordings are public records as defined by the Alaska Public Records Act (APRA) and shall be released using the statutory and regulatory guidelines of the APRA and DPS OPM Chapter 206. Any redactions made to MAVR recordings for public dissemination shall be completed by commissioned or professional staff trained in video and audio redactions. Staff processing Alaska Public Records

Act requests shall use OPM Chapter 206 to determine what, if any, redactions should be made to MAVR recordings.

**B. *Recordings associated with active court proceedings or open investigations.*** Absent exigent circumstances, MAVR recordings that are associated with active criminal, civil, or administrative court proceedings, or open criminal investigations should not be released until the court proceedings and/or investigation is closed.

**C. *Release of critical incident MAVR recordings.*** In consultation with the Commissioner's Office and applicable Division Directors the Public Information Office (PIO) may proactively release MAVR recordings associated with officer involved shootings or other critical incidents before an investigation or criminal court proceedings are complete. PIO will notify the member and applicable Associations prior to public release. Criminal investigator interviews with the involved officers, witnesses, and victims should be completed prior to the public release.

#### 241.340 STORAGE AND ACCESS OF RECORDINGS

**A. *Video storage.*** Video files from MAVR devices shall be uploaded to and stored in CJIS-compliant servers hosted on a remote network. MAVR devices will be sent to a location with adequate internet connectivity when local connectivity issues dictate and a spare MAVR device is available; if an extra MAVR device is unavailable, video files shall be downloaded to a dedicated and approved electronic storage device for future upload to the identified CJIS-compliant server within a reasonable amount of time. Officers will be instructed by their supervisor as to what constitutes an approved electronic storage device. MAVR video files shall be encrypted, both in transit and at rest.

**B. *Prohibitions on storage medium.*** Absent unusual circumstances, body-worn camera or vehicle equipped video recordings shall not be stored on a computer, laptop, tablet, or similar device that is connected to the DPS computer network other than to temporarily transfer the digital file(s) to an approved storage device.

**C. *Transferring recording files.*** Employees must verify that MAVR recordings have been successfully transferred to an approved storage device or server before deleting the digital file from the recording device. When transferring the digital recording from the device, the recording must be kept in its original format for evidentiary purposes. Employees may convert a copy of the digital file in another format such as a Wave file, but they must maintain a copy in the original format. MAVR recordings for evidentiary purposes must not be altered in any way. All MAVR and vehicle equipped video recordings are to be transferred to the DPS central digital video evidence repository as often as practical, and at least quarterly.

**D. *Frequency of MAVR downloads.*** All MAVR and vehicle equipped video recordings shall be securely downloaded on the quickest frequency possible as determined by the Detachment Commander or post supervisor. The frequency of downloads shall be determined by the geographical location, access to download stations for DPS MAVR devices and uninterrupted access to an approved storage device. DPS recognizes there are circumstances that may not allow an officer access to a DPS MAVR download site such as remote calls for service, delays in

travel or incidents requiring service beyond a scheduled shift. Downloads shall occur as soon as possible but no later than at the end of the duty week.

**E. Categorization/Tagging and Digital File Name.** Many MAVRs automatically capture metadata such as date, time, officer, vehicle, etc. while allowing for categorization/tagging or naming after the fact, either through the device or in a digital evidence management system.

For consistency, digital recording files not captured with a device capable of categorizing/tagging or naming, either through the device or digital evidence management system, will manually name each file in the following format:

**Incident # [or date if none] - PERM ID- identification info**

For example, [AK1506000-XYZ0-suspect contact] or [08152015-XYZ0-911 call]

All MAVR recordings shall be named and/or categorized/tagged before the end of their shift. If the employee is not able to name and/or categorize/tag MAVR recordings (i.e. injury, absence, etc.), the member's supervisor should assign that task so tagging is completed without unnecessary delay.

**F. Officer access.** Officers shall have access to their recordings in the DPS approved storage repository to copy recordings for completion of incident reports, investigations, evidentiary discovery to the Department of Law and to prepare for court testimony. Officers may have access to another officer's recording if the recording captured that officer's audio or video of the officer's actions during an incident, and the incident is not a deadly use of force incident. No officer shall access another officer's recordings unless the recordings are provided for investigations or court testimony with the exception of FTOs (in the course of their duties during FTEP), supervisors, the chain of command, DPS personnel making use of force reviews, officer involved shooting reviews and BlueTeam complaints, and DPS personnel processing public records requests. In the event the video captures content as described in 241.320.R, the employee shall notify their direct supervisor of the recording for the Detachment Commander to determine redaction and/or access control to the video.

FTOs, supervisors, and the chain of command shall only review MAVR recordings that exist for any officers when the recordings are determined to have captured information specific to the following circumstances:

1. When investigating a complaint of alleged misconduct;
2. When reviewing a use of force;
3. To address specific employee performance issues;
4. To ensure the equipment is operating properly;
5. To review reports of meritorious conduct;
6. At the request of an officer who was wearing a MAVR device;

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7. To identify recordings that would be a beneficial training tool and as a method to identify areas for improvement and recognize good behavior, provided that these recordings shall be used for training only;
8. To review work of subordinate employees as required by the department's OPM manual (OPM 11.310 General Responsibilities of Supervision). Until the department is able to procure automated random sampling software, Command staff at Headquarters may pull random samplings using MAVR serial numbers using a random number generator for review on a monthly basis. MAVR users shall be notified if their serial number was selected for review. This paragraph addresses review of body worn cameras specifically.

Supervisors and FTOs must notify the employee upon randomly reviewing an employee's MAVR recordings. Inadvertent discovery of misconduct during these permitted reviews shall require the supervisor to articulate the purpose of expanding the scope of their review.

**G. Access audits.** Access is to be audited periodically to ensure that only authorized users are accessing the recordings.

### 241.350 RETENTION SCHEDULE

**A. Recording classification.** In addition to the State of Alaska Records Retention and Disposition Schedule, the following retention schedule was created for body-worn camera and vehicle equipped video recordings to balance both the need to retain relevant evidence as long as necessary with limited state resources including storage capacity and staffing. Inadvertent or innocuous recordings in 241.320.R. shall be retained based on the classification of the relevant recording content.

Recordings are to be classified as 1) criminal evidence, 2) civil evidence, 3) violation evidence, or 4) non-evidence.

1. Criminal evidence recordings are those that, because of their nature, are of evidentiary value in criminal investigations and potential criminal prosecutions. Criminal evidence recordings are to be retained for as long as necessary, in light of applicable statutes of limitation, open/closed file status, Department of Law recommendations, court orders, and DPS policies.
2. Civil evidence recordings are those that, because of their nature (i.e. reportable use of force incident), are of evidentiary value in investigations that reasonably could lead to making a claim or filing a lawsuit against the State of Alaska or its employees, including DPS employees, or those involving non-state third parties who have requested that DPS preserve the evidence for litigation. Civil evidence recordings are to be retained for a period of 26 months or until the pending civil litigation is fully resolved, whichever is longer.
3. Violation evidence recordings are those that, because of their nature, are of evidentiary value in instances that resulted in the issuance of non-criminal violation charges/citations. Violation evidence recordings are to be retained for a period of 26 months.

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4. Non-evidence recordings are those, because of their nature, are of no inherent evidentiary value, but nonetheless were made to document citizen contacts. Examples of non-evidence recordings are (1) traffic stops or field contacts where no citation or warning was issued; (2) contacts with citizens to provide routine assistance; and (3) unfounded complaints that result in a “non-reportable” ARMS incidents. Non-evidence files are to be retained for a period of 90 days unless specially marked for a longer retention period. Examples of recordings that should be marked for a longer retention period include contentious citizen contacts and citizen contacts that reasonably can be anticipated will result in a complaint regarding DPS employee conduct. Recordings specially marked for extended retention will be retained for the specified time period or a period of 26 months, whichever is shorter in duration.

### 241.360 POLICY EVALUATION

**A. *Periodic review.*** DPS committee members will periodically review this policy for any necessary updates to provisions for procedures, public dissemination, storage and access of recordings and the retention of recordings. DPS committee members will review the body-worn camera program periodically for any necessary changes. DPS will provide PSEA any changes to chapter 241 of the OPM and meet to bargain any required subjects of bargaining prior to implementation. It will be the responsibility of PSEA to articulate any issues they deem as a mandatory subject of bargaining.

# Body Worn Audio & Video Cameras

<input checked="" type="checkbox"/> New:09/04/2023 Rescinds: Amends:		References:
Effective Date: 09/04/2023	Issue/Amend Date: 09/04/2023	Issuing Authority: Shawn I. Butler – Tribal Chief of Police
		

## I. PURPOSE

The purpose of this policy is to establish guidelines for the utilization, management, storage and retrieval of audio and video media which is recorded by Body Worn Cameras (BWC).

## II. POLICY

The Catawba Nation Tribal Police Department (CNTPD) understands the necessity in utilizing and maintaining body worn cameras. Body worn cameras will be used by all on-duty uniformed officers assigned to the Uniform Patrol Division at the rank of sergeant and below, and any other officer that is assigned a body worn camera to assist in the performance of their duties, of which can provide an accurate and unbiased recorded account of an incident. Additionally, to maximize the effectiveness of the body worn camera systems and to maintain the integrity of evidence and any related captured documentation, all personnel utilizing body worn cameras will adhere to the procedures outlined within this policy.

Lastly, the utilization of BWC technology enhances the accountability of all individuals during police encounters and provides supplemental documentation for investigative purposes while building trust and transparency with the citizens that we serve.

## III. UTILIZATION

Body worn audio and video cameras enhance the department’s ability to capture and review incidents, thereby preserving and enhancing the public’s trust in and perception of the integrity of the Catawba Nation Tribal Police Department.

Body worn cameras will be utilized in the following capacities:

- a. Documenting all calls for service, (both self-initiated and dispatched events), which in turn can augment the prosecutorial process, court reporting and testimony process, and evidentiary prosecutorial and investigative process;
- b. Reviewing critical incidents either self-initiated or dispatched events, in order to provide a clear picture as to the events of occurrence, which provides the department and the general public an accurate and unbiased account of an event;



- c. Reviewing officer-public interactions to ensure all department policy and procedures are followed;
- d. Review interactions, including the arrest process to ensure all mandated guidelines are followed;
- e. Capturing evidence during crime and accident scenes;
- f. Reviewing evidence for the investigation of criminal incidents and administrative/internal incidents;
- g. Reviewing incidents for the purposes of officer evaluation and the enhancing of training techniques.
- h. Any incident as deemed necessary by the Tribal Chief of Police.

#### IV. CONFIDENTIALITY

Recorded media, images, audio, and video are the property of the Catawba Nation Tribal Police Department and will not be copied, released or disseminated in any form outside the parameters of this policy, Catawba Nation Ordinance, applicable laws, or without the expressed consent of the Tribal Chief of Police or his designee. Under no circumstances will an employee of the CNTPD make a personal copy of said media, outlined within this policy, without the prior written permission of the Tribal Chief of Police or his/her designee.

#### V. PROCEDURES

##### A. Equipment:

Department issued body worn cameras are intended for official department use only and not to be used for frivolous or personal activities. Intentional misuse or abuse of the units may result in disciplinary action.

1. Officers will only use the body worn cameras that are issued and approved by the CNTPD. The wearing of personally owned video recorders is not authorized.
2. The audio and video captured by the body worn cameras and in-car cameras will only be downloaded at approved locations with approved hardware/software.

##### B. Officer Responsibility:

Prior to the beginning of each shift, officers issued a body worn camera will conduct an operational inspection of all elements of the audio and video recording system, to ensure readiness. Inspection and maintenance will be performed and conducted according to manufacturer guidelines and training.

1. Any problems preventing the use of the body worn camera upon initial inspection and/or during the course of the shift will be reported to the on-duty shift supervisor, immediately.
  - a. If the problem that prevents the use of the camera cannot be remedied, the Information Technology Department will be notified.
  - b. If the Information Technology Department cannot repair the camera, the

officer will be issued a spare body worn camera, if possible and the body worn camera vendor will be contacted to begin a request for repair by the Administrative/Technical Lieutenant who oversees this program.

2. Any loss of or damage to a body worn camera will be immediately reported to the officer's supervisor. Damaged equipment will not be utilized until repairs have been completed.

**D. Operating Procedures:**

1. Officers will receive training on the use of body worn cameras, based upon manufacturer guidelines and department policy, prior to the operation of a body worn camera in the field. This training will include legal aspects and considerations.
2. Body worn cameras are required to be used when a uniformed or plain clothed officer arrives at a call for service or initiates any other law enforcement or investigative encounter between an officer and a member of the public, including, but not limited to:
  - a. Scenes of violent crimes;
  - b. Traffic Stops;
  - c. Motor vehicle collision investigations (specific to when the parties of the collision are on-scene;
  - d. Suspicious persons;
  - e. Public intoxicated persons;
  - f. Field contacts/field interviews;
  - g. Emotionally disturbed persons;
  - h. Calls for service or self-initiated calls where weapons could be present;
  - i. Use of force incidents; and/or,
  - j. Contact with an adversarial person or potential adversarial persons.
3. Officers will activate their body worn cameras during **all calls** for service and self-initiated calls or contacts. Officer are not required to activate their body worn camera with consensual encounters of the public, which are of a non-investigative nature. Notwithstanding, if this consensual encounter would have the potential to turn into a law enforcement activity, activation of the camera would be required, such as:
  - a. If, during a non-investigative encounter, an officer develops reasonable suspicion or probable cause of a crime, or if the encounter becomes confrontational, the officer will active the body worn camera.
  - b. There could be instances that an event would normally not require the camera to be activated; however, the situation could rapidly evolve and become either hostile or adversarial, and activation of the camera could be unsafe, impractical, or unreasonable to activate the camera. Those instances would require descriptive documentation within the officers case report and a supervisory notification.
  - c. If there is reasonable suspicion or probable cause at the beginning of an encounter or incident, the officer will activate the body worn camera.
4. Tactical activities, such as building searches, searching for suspects, and building checks during an alarm, will be recorded.

5. There is no obligation to obtain consent from victims or witnesses prior to using a body worn camera, during an interview. However, if asked about its use, an officer will be forthcoming about its use. At that time, the officer will have discretion on whether to keep the body worn camera activated or deactivate the camera. If the officer deactivates the body worn camera, the officer will document the reason the deactivation occurred within their case report, as well as verbally while talking on the body worn before deactivation.
6. Body worn cameras will be used only in conjunction with official law enforcement duties. The BWC will not generally be used to record communications with:
  - a. Other law enforcement personnel without the permission of the Tribal Chief of Police;
  - b. Encounters with undercover officers or confidential informants; and,
  - c. When on break or otherwise engaged in personal activities, unless for a direct law enforcement purpose such as a crime in progress or the recording of the location is material to a criminal investigation.
7. Furthermore, officers will use discretion where there is a victim of rape or sexual assault.
8. Additionally, to respect the dignity of others, unless articulable exigent circumstances exist, officers will make every effort to avoid recording persons who are nude or when sensitive human areas are exposed unless they are the subject of enforcement action.
9. If it becomes necessary to temporarily mute the conversation during the course of an event or investigation while utilizing the body worn camera, this will be done so only when the situation has evolved beyond the immediate preliminary encounter and the situation has stabilized. Muting of the camera would arise if it becomes necessary to discuss the specifics of the event, investigation, or case with another officer or supervisor in furtherance of the investigation. If the temporary muting of the body worn occurs, the justification will be recorded on the audio/video as well as within written within the officers case report.
10. Supervisors at the rank of Tribal Sergeant and above may authorize body worn cameras to be turned off when on scene for extended periods of time when there is no evidentiary value gained from continued recording. The supervisor's name authorizing discontinuing recording will be verbally noted on the camera audio before the camera is deactivated as well as in the officer's written case report.
11. Officers will upload audio/video to the system upon completion of their shift or special activity during their shift or during their next shift.
12. Officers will have access to review the recordings when preparing written reports or statements of events to help ensure accuracy and consistency of the accounts.

13. Officers will not have the ability to edit or erase any body worn camera activity.
14. If there is a hearing or other disciplinary matter involving the officer, the officer will be allowed to review the activity from their body worn camera regarding the incident in question.
15. At the conclusion of the incident or event that caused the activation of the body worn camera, the officer can deactivate the camera, according to manufacturer guidelines and training protocols.
16. If an arrest occurs, the transport itself will be videoed, either by the body worn camera or the in-car audio/video camera. In the event of a transportation interruption, that causes the officer to have personal contact with the detainee, the body worn camera will again be activated.

**C. Supervisor Responsibility:**

1. It is incumbent on all supervisors to ensure officers utilize body worn cameras in accordance with policy guidelines.
2. Designated supervisors will be assigned to conduct random, monthly reviews of five (5) selected recordings in order to assess officer performance as well as ‘flag’ videos that may be appropriate for training purposes. These reviews will be documented on the video review form.
3. If a complaint is associated with a recorded event or if an officer or their immediate supervisor believes the incident may generate a complaint, the supervisor will ensure that video is ‘flagged’ for indefinite retention and, if necessary, restrict access to the video.
4. Supervisors will take custody of a body worn camera if an officer is involved in an incident involving death or great bodily injury. The supervisor will maintain custody of the device and ensure it is downloaded as soon as practicable.

**D. Video Evidence and Retention:**

1. If a video is needed for evidence in court, the video can be requested through the officer’s Tribal Sergeant of Police or the Tribal Captain of Police.
2. Data recorded by a body worn camera is not a public record subject to disclosure under the Freedom of Information Act.
  - a. The State Law Enforcement Division (SLED), the Attorney General, a circuit solicitor, or a Tribal criminal court judge may request and will receive data recorded by a body worn camera for any legitimate criminal justice purpose.
  - b. A law enforcement agency, the State Law Enforcement Division, the Attorney General, a circuit solicitor, or a Tribal criminal court judge may release the data recorded by a body worn camera, according to that entity’s discretion.

- c. A law enforcement agency may request and will receive data recorded by a body worn camera if the recording is relevant to an internal investigation regarding misconduct or disciplinary actions of a law enforcement officer.
- d. The Tribal Chief of Police and/or Executive Director of Public Safety will have access to the data recorded by a body worn camera, if the recording is relevant to an internal investigation regarding misconduct or disciplinary actions of a law enforcement officer.
- e. In addition to persons who may request the data recorded on a body worn camera, provided in item (a, b, c), the following are also entitled to request and receiving of the data pursuant to the South Carolina Rules of Criminal Procedure, the South Carolina Rules of Civil Procedure, and/or a valid court order:
  1. A person who is the subject of the recording;
  2. A criminal defendant if the recording is relevant to a pending criminal action;
  3. A civil litigant, if the recording is relevant to a pending civil action;
  4. A person whose property has been seized or damaged in relation to, or is otherwise involved with, a crime to which the recording is related;
  5. A parent or legal guardian of a minor or incapacitated person described in item (1) or (2); and,
  6. An attorney for a person described in sub items (1) through (5).
3. Recordings that are non-investigative, non-arrest, and are not part of any internal investigation will be retained for a minimum period of thirty (30) days, after the recording date.
4. Recordings of any arrests or violations of offenses listed in the South Carolina Preservation of Evidence Act, S.C. Code 17-28-320, the expungement statute of S.C. Code 17-1-40, or any other statute, regulation, or case law will follow the retention requirements outlined therein.
5. Recordings that involve General Sessions offenses not listed in the South Carolina Preservation of Evidence Act will be retained for a minimum of ten (10) years.
6. Any recording not outlined in items (3) through (5) will be retained indefinitely, upon the approval of the Tribal Chief of Police.

<b>DIRECTIVE 1004</b>	<b>Body Worn Cameras</b>
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**Effective Date: 08-01-2017**

**I. PURPOSE**

The Leech Lake Police Department has equipped law enforcement personnel with Body Worn Camera (BWC) systems. The primary purpose of using BWCs is to capture evidence arising from police-citizen encounters. In addition, this directive provides members of The Leech Lake Police Department with guidelines for the use, management, access, storage, retrieval, and retention of audio visual media recorded by BWC systems. While this technology allows for the collection of valuable information, it raises many questions about balancing public demands for accountability and transparency with the privacy concerns of those persons being recorded. In deciding what to record, this directive also reflects a balance between the desire to establish exacting and detail requirements and the reality that officers must attend to their primary duties and safety of all concerned, often in circumstances that are tense, uncertain, and rapidly evolving.

**II. POLICY**

It is the directive of The Leech Lake Police Department to authorize and require the use of department issued BWCs as set forth below, as required by Minnesota Statute § 626.8473, Subd. 3 and to administer the resulting data as provided by law. The primary purpose of using the BWCs is to capture evidence and accurately document police-citizen encounters.

**III. SCOPE**

This directive governs the use of BWCs by members of The Leech Lake Police Department in the course of their official duties. The chief or chief's designee(s) may supersede this directive by providing specific instructions for BWCs use to individual officers, or providing specific instructions pertaining to particular events or classes of events, including but not limited to: political rallies and demonstrations. This directive does not govern the use or surreptitious recording devices used in investigative or undercover operations.

**IV. DEFINITIONS**

- A. *Activate*: Any process that causes the BWC system to transmit or store audio-visual signals.
- B. *Audio Recording*: Any media that capture and records audio signals.

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- C. *Body Worn Camera (BWC):* A video recording system, defined in Minnesota Statute § 13.825, Subd. 1(b)(1), that is typically utilized by Law Enforcement to record their interactions with the public or gather video footage at crime scenes.
- D. *Law Enforcement Operator (LEO):* Primarily a licensed peace officer including all uniformed patrol officers, Field Training Officers, narcotics investigators, general crime investigators, School Resource Officers, Conservation Officers, Conservation Cadet's, Community Service Officers, and may include non-licensed representatives of The Leech Lake Police Department who are authorized, trained, and assigned to operate BWC equipment.
- E. *Link camera feature:* Refers to the ability to activate the BWC through a single activation trigger.
- F. *MGDPA:* The Minnesota Government Data Practices Act, Minnesota Statutes Chapter §13.01, et seq.
- G. *BWC Administrator:* A sergeant/supervisor who assigns, tracks and maintains BWC equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor, and prepares for the biannual audit controls user rights and access, also tasked with training officers with the proper use of BWCs.
- H. *BWC Technician:* Personnel certified or trained in the operational use and repair of BWCs, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures. Responsibilities include; reproduction of recorded data and maintain dissemination records regarding disclosure of data in accordance with Minnesota Statutes §13.82 and §13.825. Maintain an inventory of BWC data on reference server and purged in accordance with data retention directive (complies with Minnesota Statute §13.817 Retention of Data and §13.825 Recording Device) for the BWCs.
- I. *Official duties:* For the purposes of this directive, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

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- J. *Property and Evidence Technician:* Personnel certified or trained in receiving and storing evidence and property, maintaining property inventory reports with proper “chain of custody” notation including any and all action associated with the property or evidence.
- K. *Recorded Media:* Audio-visual signals that are recorded or stored on the BWC and Server.
- L. *Smart Device:* A smart device is a device that is digital, active, computer networked, is user reconfigurable and that can operate to some extent autonomously. Devices that fall into this category are Smartphones and tablets.
- M. *Unintentional recorded footage:* Is a video recording which results from an officer’s inadvertence or neglect in operating the officer’s BWC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to: recordings during a vehicle check, recordings made in locker rooms, restrooms, and recordings made while officers are engaged in conversations of a non-business, personal nature with the expectation that the conversation was not to be recorded.

### **V. PROCEDURE**

- A. BWC Operational Objectives – The Leech Lake Police Department has adopted the use of BWCs to accomplish the following objectives:
  - 1. To document statements and events during the course of an incident.
  - 2. To enhance the LEO’s ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
  - 3. To preserve visual and audio information for use in current and future investigations.
  - 4. To provide a tool for self-critique and field evaluation during LEO training.
  - 5. To enhance the public trust by preserving factual representations of LEO-citizen interactions in the form of recorded media.



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6. To assist with the defense of civil actions against LEO's and the Leech Lake Reservation.
- B. LEO Responsibilities – LEO safety shall be the primary consideration for the use and activation of the BWC system. LEO's that are issued a BWC will wear the BWC as part of their uniform in the manner specified at the time of training. Inspection and general maintenance of BWC equipment shall be the responsibility of the LEO to whom the BWC is assigned. LEO's should periodically test the BWC system operation in accordance with manufacturer specification and department operating procedures and training, at the discretion of The Leech Lake Police Department. If the BWC is malfunctioning, the LEO shall as soon as reasonably possible notify a supervisor. If any BWC system is damaged or stolen, the LEO shall, as soon as reasonably possible, notify a supervisor. The LEO will download data within the following timelines:
    1. Immediately after a critical incident or use of force incidents.
    2. Immediately for pending follow ups or active investigations.
    3. Immediately upon requests of the supervisor.
    4. Prior to end of an ending shift rotation.
  - C. Extra-duty employment -- The LEO's that are issued a BWC will wear the BWC as part of their uniform while engaging in extra-duty employment. Due to the unique demands of some extra-duty jobs a LEO wearing a BWC while engaged in extra-duty employment is not required to activate the BWC for every contact made. However, such officer shall be expected to activate the BWC if a situation or incident occurs which would otherwise require activation, when safe to do so. The BWC shall not be worn while LEO's are engaged in outside agency employment or non-duty employment.
  - D. BWC Operating Procedures – The BWC may be activated either automatically or manually by the LEO.
  - E. Required Activation of the BWC – This directive is not intended to describe every possible situation in which the BWC system may be used, although there are many situations where its use is appropriate. A LEO may activate the system at any dispatched call, on view or contact in which its use is appropriate. It is not possible to capture images of the

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incident due to conditions or the location of the camera in some circumstances. However, even when the incident may be outside video range, the LEO is encouraged to activate the BWC to capture the audio portion of the incident. An officer shall activate the BWC system, if practical and without compromising the safety of the officer or the public, in the following circumstances:

1. Traffic stops (to include, but not limited to traffic violations, stranded motorist assistance and all crime interdiction stops);
2. Priority responses;
3. Vehicle pursuits;
4. Arrests;
5. Vehicle searches;
6. Physical or verbal confrontations;
7. Use of force;
8. Prisoner transports;
9. Crimes in progress;
10. Taking a statement or information for proper purposes; or
11. Any situation or incident that the officer, through training and experience, believes should be audibly and/or visually preserved.
12. Testing of the BWC to ensure adequate functioning of the recording device prior to each shift.

**BWC equipment shall be activated in these circumstances even if the in-squad system is activated, provided it is safe for the officer to do so.**

- F. Cessation of Recording – Once activated, the BWC system shall remain on until the incident has concluded unless:
1. The officer does not reasonably believe that activation will result in the loss of critical evidence;
  2. Deactivation is reasonable and necessary to protect the safety of the officer or others; or

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3. Deactivation is approved or ordered by a supervisor or investigator.
  4. For purpose of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and witnesses and victims have been interviewed. Recording may be temporarily paused to exchange information with other LEO's. Recording may cease during non-enforcement activities such as waiting for a tow truck or a family member to arrive, protecting accident scenes or in other non-enforcement situations.
- G. Advisement about Recording
1. Private citizens do not have a reasonable expectation of privacy when talking with police officers during the scope of an officer's official duties, even when the contact is in a private residence. Therefore, officers are not required to give notice they are recording. However, if asked, officers shall advise citizens they are being recorded.
  2. Officers are not required to initiate or cease recording an event, situation or circumstance solely at the demand of a citizen.
- H. Prohibited Recordings
1. Communications with other LLTPD police personnel without permission of the Chief Law Enforcement Officer (CLEO). This does not apply to officers making recordings as required in section 5 of this directive.
  2. Encounters with undercover officers or confidential informants.
  3. BWCs shall not be utilized for non-work related activities.
  4. BWCs shall not be utilized to record in areas or activities such as pre-shift conferences, department meetings, counseling or coaching sessions with supervisory personnel, locker rooms, break rooms, or other activities not related to criminal investigations.
  5. Officers should not record informal encounters with members of the public.
  6. Patient Privacy – Officers utilizing BWCs shall not record patients during medical or psychological evaluations by a doctor or similar professional during treatment, unless required for evidentiary

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criminal investigation purposes. (e.g., blood draws for investigation purposes) When recording in hospitals and other medical facilities, officers shall avoid recording persons other than suspect(s).

- I. Supervisor Responsibilities
  1. At least once per month, supervisors will randomly review BWC recordings made by each officer they supervise to ensure the equipment is operating properly and officers are using the device properly in accordance with directive and to identify any performance areas in which additional training and guidance is required. Supervisors shall document the date of their review and the name of each officer whose video footage was reviewed. Sergeants and commanders will submit documentation of their review to their respective command level supervisor. Any noted non-compliance with the departmental directive pertaining BWC use shall also be reported to the Chief of Police.
  2. At reasonable intervals, supervisors should validate that:
    - a) BWC directives and procedures are followed
    - b) Logs reflect the proper chain of custody at property
    - c) Will create a "Special Detail ICR" on a quarterly basis and review four recordings to assure subordinates are recording and labeling as required per this directive. These findings will be forwarded to the next LEO on the Chain of Command.
  3. When an incident arises requiring the immediate retrieval of the recorded media (e.g., serious crime scenes, LEO-involved shootings, department-involved collisions), a supervisor should respond to the scene and ensure recorded media is secured in accordance with department directive. The media shall be processed and retained in accordance with current procedures for recorded media.
- J. Classification of BWC Data – Nothing in this directive shall be interpreted as changing the underlying classification of data collected by the BWC systems. The classification of data collected by the BWC systems will need to be determined on a case basis. The factors that will determine the classification include the specific facts and circumstances surrounding

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the data, the application of the relevant directives and procedures as well as application and interpretation of the MGDPA and other laws.

### K. Access to BWC Data

1. All recording media, recorded images and audio recordings are the property of the Agency and Leech Lake Band of Ojibwe. Dissemination outside of the Agency, or Leech Lake Band of Ojibwe, is strictly prohibited except to the extent permitted or required under Minnesota Law, and Government Data Practices Chapter 13.
2. Access to BWC data will be determined in a manner consistent with the Agency and Leech Lake Band of Ojibwe, or other applicable law.
3. To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the department BWC supervisor. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.
4. Recordings may be reviewed in any of the following situations:
  - a) For use when preparing reports or statements;
  - b) By a supervisor investigating an official complaint;
  - c) By a supervisor to assess LEO performance;
  - d) To assess proper functioning of a BWC system;
  - e) By department investigators assigned to related criminal investigation, or after approval of a supervisor, for official investigations;
  - f) By a LEO who is captured on or referenced in the video or audio data and reviews and uses the data for any propose relating to his/her employment;
  - g) By court personnel through proper process via search warrant, subpoena, court and or for prosecutorial purposes.
  - h) Recordings may be shown for staff or public safety training purposes. If an involved LEO objects to showing a recording, his/her objection will be submitted to the CLEO to determine if

## *Directives of the Leech Lake Tribal Police Department*

the training value outweighs the LEO's objection. During the Field Training Officer Phase of new LEO's, the training officer may review footage with the trainee for training purposes.

- i) An officer is entitled to access audio and video data: derived from BWC equipment issued to him/her; in which his/her voice or image appears; when reasonable and necessary for the officer to perform the essential functions of his/her job; or to defend against allegations of substandard performance or misconduct. Except when the officer is involved in a critical incident resulting in substantial bodily harm, great bodily harm or death, viewing of any prior to giving a statement will be at the discretion of the investigating agency.
- j) An officer shall not make a copy of any audio or video data without the prior approval of a supervisor.
- k) Supervisors shall not access or review audio or video data involving an employee under their supervision for the purpose of surveillance of the employee or initiating disciplinary action against the employee. However, data collected by the BWC may be used as evidence relating to a formal complaint of misconduct made against an officer in accordance with The Leech Lake Tribal Police Department Manual Chapter 11 Professional Conduct-General Conduct of Officers.
- l) The Department shall restrict, by password protection, access to all audio and video data and shall maintain an electronic record of the date, time, and person with regard to each access data.
- m) Officers shall refer members of the media or public seeking access to BWC to The Leech Lake Police Department, "Attention Records." The records department supervisor shall process requests in accordance with the Minnesota Government Data Practice Act Chapter 13 and any other governing laws. In particular:
  - (1) An individual shall be allowed to review recorded BWC data about their selves and other data subjects in the recording, but access shall not be granted:

## *Directives of the Leech Lake Tribal Police Department*

- (a) While the collected or created data is part of an active investigation.
  - (b) To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minnesota Statute §13.82, Subd. 17.
- (2) Unless the data is part of an active investigation, an individual data subject shall be provided a copy of the recording upon request, but subject to the following guidelines on redaction:
- (a) Data on other individuals in the recording who do not consent to the release must be redacted.
  - (b) Data that would identify undercover officers must be redacted.
  - (c) Data on other officers who are not undercover, and who are on duty and engaged in the performance of official duties may not be redacted.
- n) Other authorized disclosures of data- Officers may display portions of BWC footage to witnesses necessary for purposes of investigation as allowed by Minnesota Statute §13.82, Subd. 15, as may be amended from time to time. Officers should generally limit these displays to protect against incidental disclosure could involve; for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio, or playing the audio but not displaying video. In addition:
- (1) BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.
  - (2) BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.
- o) Employees desiring to view any previously uploaded or archived BWC recording should submit a request in writing to their immediate supervisor.

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- p) In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.
- L. Documenting BWC Use – If any incident is recorded with the video or audio system, the existence of that recording shall be documented in the LEO’s report. If a citation is issued the LEO shall make a notation on the records copy of the citation indicating that the incident was recorded.
- M. Recording Media Storage and Retention – Once submitted for storage, all recorded media will be labeled by referencing the complete ICR number assigned to the incident and stored in a designated secure area. This information will also be referenced in the “Evidence Section” of the Agency records management system. All recorded media that is not booked in as evidence will be retained in compliance with the established records retention schedule or as required by the rules of evidence, unless a specific request is made to store them for a longer period.
- N. Administering Access to BWC
  1. Under Minnesota Law, the following are considered data subjects for the purpose of administering access to BWC data:
    - a) Any person or entity whose image or voice is documented in the data.
    - b) The officer who collected the data.
    - c) Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording.
  2. BWC data is presumptively private- BWC recording are classified as private data about the data subjects unless there is a specific law that provides differently, as a result: as is BWC data pertaining to businesses or other entities.
  3. Confidential data- BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the “private.”
  4. Public data - Except for data defined in subdivision 2, 3 and 6 of Minnesota Statute §13.82, BWC data is considered criminal investigative data under Minnesota Statute §13.82, Subd. 7. As such,



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all BWC data is considered confidential or protected nonpublic while the investigation is active. Data that is part of an inactive investigation which are clearly offensive to common sensibilities are classified as private or nonpublic, provided that the existence of the data is disclosed to any person requesting access to the investigative data. The following BWC data is public subject to the timeline identified in Data Retention Period.

- a) Any data created that is not part of an active criminal investigation.
- b) Inactive investigative data unless:
  - (1) The release of the data would jeopardize another ongoing investigation.
  - (2) The release of data would reveal the identity of individuals protected under Minnesota Statute §13.82, Subd. 17.

### O. Data Security Safeguards

- 1. BWC data will be uploaded through an approved vendor software platform to a secure server maintained by The Leech Lake Tribal Police Department's approved MIS/vendor.
- 2. Personally-owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view agency BWC data.
- 3. As required by Minnesota Statute §13.825, Subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program.

### P. Data Retention Periods for Recorded Media

- 1. All BWC data shall be retained for a minimum of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.
- 2. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick or injured, or dangerous, must be maintained for a minimum period of one year.

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3. Certain kinds of BWC data must be retained for one year after disposition:
    - a) Data that documents the use of deadly force by a peace officer, or force of sufficient type or degree that warrants a use of force report or supervisory review.
    - b) Data documenting circumstances that have given rise to a formal complaint against an officer
  4. Subject to part F (below), all other BWC footage is classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
  5. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- Q. Disposition
1. Records technicians and supervisors/sergeants are responsible for clearing of evidence items.
  2. Evidence may be cleared when:
    - a) Prosecution is complete and the applicable appeal time has lapsed.
    - b) The statute of limitations has expired.
    - c) The complainant has provided a written request to close their case.
  3. The LEO, immediate supervisor, or Chief may prevent automated deletion by changing the category of the media at any time prior to deletion.
  4. Any media related to an internal investigation of a LEO, or from an incident in which a signed complaint is made regarding a LEO, shall be retained for a minimum of one year.

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5. Destruction of data in accordance with this directive does not alter the duty to defend and indemnify set forth in Minnesota Statute §466.07.
- R. System Operational Standards
1. The BWC system shall be configured to minimally record 30 seconds prior to an activation (if system allows it).
  2. LEO's using the digital transmitter that are individually synchronized to their individual BWC shall activate both audio and video recordings when responding in a support capacity in order to obtain additional perspectives on the incident scene.
  3. With the exception of law enforcement radios or other emergency equipment, other electronics devices should not be used within the law enforcement vehicle in order to intentionally interfere with the capability of the BWC system to record audio data.
  4. LEO's shall not intentionally erase, alter, reuse, modify or tamper with BWC recordings. Only a supervisor or investigator may erase and re-issue previously recorded media in accordance with this directive. The officer shall not intentionally block the BWCs audio or visual recording functionality to defeat the purpose of this directive.
  5. Officers who have been issued BWCs shall operate and use them in a manner consistent with this directive. Officers may use only department issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.
- S. Property and Evidence Technician Responsibilities – The property and evidence, is responsible, by records technicians and supervisors:
1. Retrieving, storing, erasing and duplicating of all recorded media.
  2. Collecting all completed media for oversight. Once collected the property and evidence:
    - a) Ensures it is stored in a secured location with authorized controlled access.

## *Directives of the Leech Lake Tribal Police Department*

- b) Makes appropriate entries regarding the location of media that has been distributed.
  3. Erasing the media:
    - a) Pursuant to a court order.
    - b) In accordance with established records retention directives.
  4. Ensuring that an adequate supply of recording media is available.
  5. Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.
  6. Will stay abreast of changes in law, directive, and technology and will recommend changes to the BWC directive when applicable.
  7. In case of a system malfunction officers are to notify supervisors as soon as reasonable. Have replacement as soon as possible.
  8. Server will be stored in a secure area. Copies created for investigative purpose only, copies will not be for personal use.
- T. Copying and Releasing Digital Evidence
  1. Digital evidence captured by BWCs shall be treated as official records and handled pursuant to existing department directives procedures and per MGDPA Chapter 13.
  2. To obtain records these requests shall be made to the department records clerk for completion.
  3. Prior to release digital recorded media is subject to MGDPA Chapter 13, and redaction software will be provided by The Leech Lake Tribal Police Department. The records clerk will be responsible for the redaction of digital media and or anyone assigned and has received training.
  4. All requests for release of digital BWC data shall be subject to a fee of \$25.00 per request, or at the discretion of Chief of Police.
- U. Training

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1. Users of the BWC system shall successfully complete training of WATCHGUARD BWC System prior to being deployed in operational settings. This training will be required of all LEO's as described in the definitions section, newly hired field trained officers will be required to receive training as part of the Field Training Officer Manual.
2. It is recommended that the operation of BWC systems by new employees is assessed and reviewed no less than biweekly or until the new employee demonstrates a working knowledge of the BWC system and the applicable directives and procedures.



**20000.0**

# **BODY WORN RECORDER POLICY**

## **20000.0**

### **BODY WORN RECORDER POLICY**

**POLICY:** Standard Operating Procedure for issuing, using, downloading and storage of the captured audio and video from the department issued body worn audio/video camera.

## **20000.1**

### **PURPOSE**

- The purpose of this policy is to establish a procedure by which Morongo Tribal Police Department (hereinafter referred to as MTPD) personnel record contacts and store those recordings for official use. Recordings may provide an accurate and unbiased record that may be useful for investigation of complaints, tort claims and can be used as evidence for court purposes.

## **20000.2**

### **SCOPE**

- This policy applies to all MTPD personnel issued audio/video cameras to be worn during the course of their duties.

### **A. DEFINITIONS**

- Digital video/audio recorder: An electronic device used to audio or video record conversations or actions.
- Personnel: For the purpose of this POLICY, “personnel” or “officers” refers to any employee of the MTPD who are issued body worn audio/video cameras for use during their assigned shifts.

### **B. BACKGROUND**

- A. The use of audio/video recorders has proven to be an effective tool by law enforcement and security professionals in resolving issues regarding statements or officer conduct. Many times accusations are difficult to prove or disprove because there are no independent witnesses. If conversations and actions between officers and the public were recorded, these recordings could be useful to quickly and easily substantiate the facts, and in essence, create an independent observer. Any patron, visitor and resident contacts can be recorded to protect officers from false accusations and to assist in resolving personnel complaints. The recordings can help to refresh the officer’s memory in preparing official reports, preparing to testify, and assist the Court, District Attorney and Tribal Attorneys in reaching an appropriate decision in cases where the recording was made.

- B. Officers should use this system with confidence, knowing it is not intended to be a disciplinary tool against them. While recordings may be used as evidence in allegations of misconduct, it is not the intent of this policy to randomly review the recordings in order to initiate disciplinary actions.
- C. The policy is not intended, nor expected, to cover every conceivable incident or contact. As with other equipment issued to MTPD personnel, the recorder is a tool to be used to improve the effectiveness and efficiency of personnel while performing their official duties. As with any tool, employees are expected to use it only for its intended use.

### C. RESPONSIBILITIES

- D. A designated supervisor shall issue authorized personnel a digital video/audio recording device. All personnel who are assigned a digital video/audio recorder shall be responsible for its proper care and use. If a digital recorder is not working properly, it shall be reported to the Lieutenant (or their designee) immediately. A replacement recorder will be provided when available. Individuals shall use their assigned digital recorder in accordance with this policy. All personnel who are assigned digital recorders on an individual basis shall return them upon transfer, reassignment or separation from the MTPD. Personnel not assigned a recorder shall sign a recorder out at the beginning of their assigned shift, and shall return and sign the recorder back in at the end of each shift.

### 20000.3

#### USER PROCEDURES

Personnel shall utilize this device for their protection by recording contacts with the public. This policy does not require the officers to inform individuals whom they have encountered that their Body-Worn Camera (BWC) is activated and recording audio/video.

#### A. **Patrol & Enterprise Officers / Supervisors:**

All officers shall wear their Body Worn Cam Recorders while on duty. Officers **shall** activate their Body Worn Cam Recorder when responding to **any call** for service. This **shall** be done immediately upon receiving the radio call. Additionally, while handling any “self-initiated” type of incident, the officers **shall** activate their Body Worn Cam Recorder immediately upon contact with the subject. Whenever possible, the recorder shall be started just prior to the contact; however, if confronted with an unexpected event, employees should react to any potential threats and activate their recorder as soon as practical to do so.

#### B. **Gate Officers:**

Officers **shall** wear their Body Worn Cam Recorders whenever on duty. Officers **shall** activate their Body Worn Cam Recorders if the officers believe contact with the subject is escalating to a hostile situation and/or may result in a personnel complaint, or their credibility may be challenged at a later date.



- C. Once a recording is started, the contact should be recorded in its entirety. If the contact is interrupted for an extended period of time, the recorder may be turned off to preserve digital memory and battery life. The recorder shall be restarted just prior to re-contact. Any interruption in recording shall be explained in the accompanying report or memorandum.
  
- D. Personnel shall not record personal contacts not related to their duties, nor shall they record other department personnel except when such recording is incidental to a recording otherwise required or permitted by this policy. All audio and video recordings are the property of the MTPD and are subject to all policies and restrictions regarding review, reproduction and/or distribution of recordings or photographs and shall only be reproduced or distributed, as deemed necessary (and as authorized) in accordance with policy. Personnel shall not record other employees/officers or supervisors without their knowledge or permission. Personnel shall not intentionally or knowingly record confidential information or conversations between management, supervisors, quasi-supervisors and officers under any circumstances other than what is permitted within this policy.
  
- E. Personnel shall not record in highly sensitive areas such as inside the Cash Count Room (located in the Morongo Travel Center), the Morongo Casino Surveillance Department, within Restrooms with other patrons present, or other areas designated as “No Recording” zones within the Administrative building or other Morongo establishments.
  
- F. Personnel shall not intentionally record sensitive medical treatment of patrons or employees unless expressed authorization to do so has been given by the patron or employee being treated or attended to. Exceptions to this shall include individuals who are uncooperative, belligerent, combative, or otherwise being disruptive, or where they are concurrently being investigated for violations of Morongo ordinances or criminal violations of state statutes.
  
- G. Note: Personnel may record statements by a patron, or employee being medically assessed as to how they allege an injury or illness occurred, their stated present status or condition, and acceptance or declination of treatment. However to ensure the privacy and dignity of the injured or ill guest or employee, sensitive medical treatment shall not intentionally be recorded, unless the person being treated is uncooperative, belligerent, combative or otherwise being disruptive, or where they are concurrently being investigated for violations of Morongo ordinances or criminal violations of state statutes.

- H. If an employee inadvertently records an unauthorized conversation, that employee shall notify their supervisor, who will review the recording to ensure it is appropriate to delete it or document the incident, and notify the Chain of Command of the event.
- I. Only department issued recorders are to be used for Audio/Video recordings; recordings from personal-owned cameras, cellular phones and/or recorders are not permitted. Anyone who uses a personal-owned camera-recorder during the scope of their duty or while on property is in violation of department policy and may receive discipline up to, and including termination. Although the recorders are capable of taking still photos, this section does not apply to photographs, as other devices may still be used for better quality photos.
- J. Personnel issued Body Worn Cameras shall be responsible for the issued cameras proper use, care and accountability. Cameras that are lost, misplaced, or damaged through negligence, misuse, or lack of proper control or care shall become the financial responsibility of the officer the camera was assigned to at the time. Financial responsibility shall be the repair or replacement value of the camera, at the time of damage or loss. Personnel shall utilize the appropriate retaining straps, clips, clamps or holders to secure the camera onto their person when in use.

#### **20000.4**

#### **PROCEDURE FOR DIGITAL RECORDING STORAGE/OFFICER REVIEW/ANNUAL REVIEW**

- A. At the beginning of each shift, each officer issued a recorder shall examine the recorder and make sure it is in good working order for the shift, including checking the battery status.
- B. The Supervisors authorized to download recordings shall download audio/video recordings to the appropriate video file folder within the Department's Specified Drive. Copies or downloaded recordings shall not be stored on any computer, storage device or other location without prior approval of the Lieutenant, Captain or the Chief. Exceptions to the recording storage location approved by a Lieutenant shall be reported to the Chief. Where applicable, the corresponding Date, Report Number & Recording Officer's Name shall be used in the file name when storing the recordings (e.g.: 02-15-17-1702-02629-Smith).
- C. Officers may review Body Worn Camera (BWC) footage at anytime when necessary in the performance of their official duties.
- D. An annual review of this program will be conducted to ensure department adherence to changing laws, ensure upkeep with the evolution of technology, and or confirm efforts to be transparent.

- E. All Supervisors are responsible for becoming familiar with the method of properly downloading the data for storage by the department. If data or recordings need to be recovered, the Lieutenant or Investigators will coordinate the transfer of files to compact disks (CD) or other storage devices as needed. No copies of a recording contained on the Department's Specified Drive shall be copied, transferred or shared without the approval of the Lieutenant, Captain or the Chief. All other applicable policies related to confidentiality and audio/video recordings shall be followed.
- F. Personnel shall not attempt to delete, alter, edit, or otherwise change a recording. Copies of recordings will only be produced as needed for official purposes, such as; court cases, during a personnel investigation, request by a Law Enforcement Agency, request or at the request or direction of Tribal Council or their designee. If requested by a Law Enforcement Agency, the release shall be in accordance with Section 20000.7 of this policy.

#### **20000.5**

#### **PROCEDURE FOR RECORDING CONTROL AND MANAGEMENT**

- A. Audio/Video recordings will be maintained by the MTPD Administration for a minimum of two years; longer if necessary.
- B. Unless otherwise authorized in this policy, requests for copies of recordings will be routed to the Chief, or his designee. Subpoenas for Audio / Video will be responded to per Department Policy through the Legal Department. Copies of all digital recordings shall not be released to anyone other than the intended person or entity approved to receive them.

#### **20000.6**

#### **SUPERVISORY RESPONSIBILITIES**

- A. It is the responsibility of the On-Duty Watch Commander to ensure that each individual officer self-issues their designated digital video/audio recorder by signing the "Body Worn Camera Control Log." The log will be kept on file documenting the issuance of the digital video/audio recorder for accountability purposes. The On-Duty Watch Commander shall ensure that each individual personnel who checked out digital recorders return them at the end of their respective shift.
- B. Supervisors shall be responsible for examining the contents of body worn cameras at the end of each shift and for downloading pertinent files to the department's Specified Drive.

- C. If an incident occurs and is recorded which involves circumstances amounting to a “Significant Incident” (a felony crime, use of force, personnel complaint, etc.), the video **shall** be downloaded immediately following the incident. In all other cases, the video may be downloaded at the end of shift.
- D. It is the duty of supervisors to inspect and audit audio/video recording equipment weekly. Upon notification from an employee that a recorder is not serviceable or properly working, the supervisor shall ensure this information is reported to the Lieutenant or their designee immediately. A replacement recorder will be provided if one is available.
- E. Supervisors will ensure their personnel have reviewed and understand this POLICY.
- F. All personnel whom are assigned and use a digital video/audio recorder shall review and sign a policy acknowledgment form for this policy, which shall be placed in the employee’s personnel file.

#### **20000.7**

#### **VIDEO RELEASE PROCEDURE**

- A. MTPD should anticipate requests for Body Worn Camera video copies from Sheriff’s deputies or Other Agencies’ officers; especially in significant incidents or those incidents involving arrests. In the interest of transparency, under normal circumstances, the request shall be granted; however, the requesting deputy / officer shall be referred to the Chief via the chain of command.
- B. In all urgent and non-urgent matters, requests for Body Worn Camera video copies should be referred to the Chief via the chain of command. Requests for footage will be provided as soon as practical.
- C. All video(s) must be reviewed by the Chief prior to release. If the request is of an urgent nature (**emergency**) and occurs after regular business hours, the video should be downloaded to the specified drive and the Chief should be notified immediately so he can remotely view the video to approve its release.
- D. In all cases, videos released to RSO or any other outside agency shall be signed for utilizing an RSO Form, Other Agency Form, MTPD Property Control Receipt Form, and/ or a MTPD Property Disposition Form. When utilizing any of the aforementioned MTPD forms, the case number incident that the video corresponds to.
- E. Date/Time shall be entered on the form. The item description shall state “one DVD (two, three, etc.) containing Body Worn Camera Video of incident. Additional information, such as subject name, etc. can be added as well. Also included, shall be the RSO File

number, Other Agency Case number for the incident and name and ID # of the deputy or officer released to. The form needs to be signed and dated at the bottom by the employee releasing the DVD(s) and the deputy / officer receiving the DVD's shall sign as the receiver. The original shall be forwarded to Investigations and a copy shall be provided to the deputy / officer receiving the DVD(s).

- F. The release of body worn camera video shall be documented in either the initial report or in a supplemental report (depending on the time of release). Copies of the signed property receipt showing transfer and release of the copy to the Sheriff's Department or Other Agency shall be attached to the report.



**NAVAJO POLICE  
DEPARTMENT  
GENERAL ORDERS**  
*Protection, Prevention, Accountability, and  
Innovation*

Order

**DIGITAL RECORDING DEVICES (Special Order)**

Subject:

**100 Procedures**

Effective:

**December 6, 2018**

**SUMMARY**

This Order addresses the use of digital devices designed to record audio and video information. Images and audio captured by digital devices are used to enhance investigations, capture evidence, and provide transparency of law enforcement activities and encounters with the public. The electronic evidence aids in prosecution of criminal cases and in resolving professional standards matters, and civil lawsuits against the Navajo Nation, the Department, or any of its employees. The recordings can be useful for preparing offense reports, testifying in court, protecting officers from false allegations of misconduct, and providing a source of training materials for incident debriefing or performance evaluations. Please note that all digital recordings have limitations, and may not be an exact replica of the activities and nuances present in every circumstance. There are a number of factors to consider when reviewing and using any recording.

**A. POLICY**

The purpose of this Order is to establish guidelines for the appropriate use of digital recorders as well as the submission, storage, retrieval, review, and deletion of digital recordings.

**B. DEFINITIONS**

1. **APPROVED DIGITAL RECORDER:** A digital audio and/or video recording device owned and assigned by the department for use by officers to document police related incidents
2. **BODY WORN CAMERA (BWC):** An approved digital audio-video recorder worn by the officer at or above shoulder height.
3. **DIGITAL RECORDER:** Unless otherwise limited by its context, digital recorder includes any digital audio and/or video recording device used by officers to document police related incidents (includes BWC).
4. **DIGITAL EVIDENCE:** Includes any and all video, audio, still images, and recordings made during the course of or in furtherance of official duties.
5. **CASUAL OR INFORMAL CONTACT** – Incidental contact with a citizen outside of law enforcement activity or a call for service.

**C. GUIDELINES**

**THESE GUIDELINES APPLIES TO ALL DIGITAL RECORDERS** used in the course of official duties, whether the device is owned by the department or privately owned.

1. **APPROVED DIGITAL RECORDERS ARE ASSIGNED** by the department and maintained by the officer. Prior to each shift, officers will inspect the digital recorder for any physical damage

- and ensure it is in proper working order. Report and document any damage or malfunction. The immediate supervisor contacts the property clerk to secure a replacement or repair.
2. **USE ONLY APPROVED DIGITAL RECORDERS** assigned by the department. However, if an approved digital recorder fails or is unavailable, and the officer reasonably determines audio and/or video recording is crucial to preserving evidence, the officer may use an unapproved recording device. Such recordings are subject to the same preservation, retention, and disclosure requirements as those recordings made with approved digital recorders.
  3. **NAVAJO OFFICE OF INTERNAL AFFAIRS (NOIA) SUPERVISOR** will, on a quarterly basis, review a random sampling of BWC recordings from various shifts to ensure policy and procedure are being followed and documents the findings. Additional recordings may be reviewed if random sampling indicates either a department wide problem or problem with one of the officers.
  4. **DURING ANY AUTHORIZED AUDIO OR VIDEO** recording, officers shall have the discretion to inform subjects when they are being recorded. The decision is based on officer safety considerations, privacy concerns, ability to investigate or obtain statements/evidence, and whether it is impractical to inform the subject.
  5. **OFFICERS MUST CONTINUE TO PREPARE REPORTS** in the same manner as prior to the implementation of the body worn camera system and not substitute "refer to video" for a detailed and thorough report.
  6. **NOTATE THE REASON FOR TERMINATING A RECORDING** in the Offense Report if the recording is stopped before completing the interaction or a recording was not started when one is required by policy. Make a notation in the computer aided dispatching notes when a report is not required.
  7. **ALL PERSONNEL ASSIGNED A BWC** shall wear it in conjunction with working in their primary duty role or in a uniform patrol extra duty capacity.
  8. **OFFICERS WILL ENSURE** the BWC is fully operational, has adequate storage space and sufficient battery life prior to the beginning of their shift.

#### **D. BODY WORN CAMERAS**

Officers assigned and equipped with body worn cameras shall activate them as follows:

1. **MANDATORY ACTIVATION:** Unless an exception applies, officers shall activate their BWC when an encounter is **reasonably anticipated to result in enforcement action**, including but not limited to;
  - a. Dispatched and self-initiated calls for service that may reasonably result in law enforcement action;
  - b. Traffic stops;
  - c. Code 3 driving, vehicle pursuits and failure to yield incidents;
  - d. Detention, arrest, and searching of prisoners;
  - e. Use of force incidents;
  - f. During the execution of a search warrant;
  - g. When contacting mentally impaired or highly intoxicated persons;
  - h. All calls involving suspected suicidal and/or suicidal individuals;

- i. Throughout the duration of an authorized search of any residence, building, structure, vehicle or person.
  - j. The confiscation and documentation of evidence or contraband;
  - k. When conducting interviews or interrogations in the furtherance of a criminal investigation; and
  - l. Anytime an officer deems it is appropriate to record.
2. **UNLESS AN EXCEPTION** or restriction applies, officers shall continue recording while actively investigating or taking enforcement action.
3. **BE COGNIZANT OF THE CAMERA'S LOCATION**, especially when utilizing jackets, traffic control vests, personal protective equipment, or any other equipment that may hinder video and / or audio capture
4. **GENERALLY, DO NOT RECORD** informal or casual encounters with members of the public. Officers should consider that recording people in some circumstances may inhibit sharing neighborhood information or developing strong ties between members of the community and officers.
5. **EXCEPTIONS TO ACTIVATION:** Officers may decide not to activate a BWC in the following circumstances:
  - a. Recording is impossible, impractical, or unsafe (but officers should resume recording as soon as possible);
  - b. Victim/witness is concerned about retaliation for cooperating with police or refuses to make a video recorded statement;
  - c. Overriding privacy concerns, such as citizen requests not to be video recorded during consensual encounters either in public or inside private residences, persons in a state of undress, etc; or
  - d. With approval of a supervisor.
6. **CONVERSATIONS BETWEEN EMPLOYEES** will not be recorded without all parties to the conversation being aware of the fact that it will be recorded. The only exceptions are those instances involving administrative and criminal investigations of Navajo Division of Public Safety personnel.
7. **ADVISEMENTS ABOUT RECORDING**
  - a. Members of the public do not have an expectation of privacy when talking with police officers during the scope of an officer's official duties, even when the contact is in a private residence
  - b. Except for undercover investigations, if asked, officers shall advise subjects they are being recorded. Officers are not required to initiate or cease recording an event, situation, or circumstance solely at the demand of a subject.
8. **GUIDANCE WHEN CITIZENS SPECIFICALLY REQUEST THAT THE OFFICER NOT RECORD A CONTACT OR INTERVIEW**
  - a. When a citizen specifically requests a contact not be recorded, the officer must decide whether to proceed with recording or not. In most cases the contact should continue recorded if the officer believes the information is pertinent to an incident identified in section D.1, except as identified in part (d) of this section.
  - b. If the interviewee refuses consent, reassure the interviewee that a recorded interview will accurately reflect their statement. Do not record if the interviewee maintains their refusal.
  - c. When interviews and contacts are not recorded, detailed notes



should be taken to ensure all information is obtained. The contact or interview will then be thoroughly documented within the appropriate investigative report as soon as possible.

- d. Body worn cameras will not be turned off based solely at the request of a citizen.

## **E. RESTRICTIONS**

The following restrictions apply to all digital recordings, whether audio or video.

### **OFFICERS SHALL NOT KNOWINGLY:**

1. Create video recordings in areas where a reasonable expectation of privacy exists such as locker rooms, restrooms, when sensitive medical exams are being conducted, etc. absent a compelling law enforcement interest;
2. Record undercover officers or confidential informants absent a valid investigative purpose (the confidential informant may be photographed or recorded for business/criminal justice related investigations);
3. Use an approved digital recorder to record any activities not related to official law enforcement duties;
4. Upload, access, copy, or convert digital recordings for any personal use, or for anything other than legitimate law enforcement purposes;
5. Make digital recordings in hospital patient care areas except when necessary for official police business;
6. Record a minor child, unless the video or voice recording is made during or as part of a law enforcement investigation, or during or as part of a forensic interview in a criminal or child protective services investigation, or with the consent of the minor child's parent, legal guardian or allowed by law.
7. Allow citizens to review the recordings in the field unless reasonably necessary for an ongoing investigation (citizens who want to view recordings may make a public records request in accordance with Navajo Nation public records laws);
8. Record Navajo Nation employees except when necessary in a criminal investigation, during official administrative interviews, or as approved by the Chief of Police;
9. Record discussions with other officers about case tactics or strategy, either before enforcement action is taken or after the scene is stabilized;
10. Record administrative functions including counseling sessions with supervisors or managers;
11. Record a critical incident debriefing;
12. Record daily briefings;
13. Record while attending or testifying during civil or criminal court proceedings or depositions; or
14. Record while on breaks or during personal activities

## **F. DATA REVIEW**

1. **INVESTIGATING OFFICERS** may review all digital media capture during an incident or event;
  - a. To assist with the investigation and completion of reports;

- b. For training purposes; and
- c. Before testifying.
2. **OFFICERS** may only review their own recorded digital media;
  - a. Before making a statement in an Internal Affairs investigation; or
  - b. Before making a statement in an officer involved shooting investigation or use of force incident that resulted in serious injury or death, but only after reviewing and signing the Garrity Warning Form.
3. **SUPERVISORS, NAVAJO OFFICE OF INTERNAL AFFAIRS INVESTIGATORS, OR COMMAND STAFF** may review digital media to review officer conduct for the purpose of an internal administrative review or investigation, or to investigate an external citizen complaint.

## G. STORAGE, RETENTION AND RELEASE OF DIGITAL RECORDINGS

1. **ALL DIGITAL EVIDENCE** captured during the scope of an officer's duties, whether on approved or privately owned digital recorders, is property of Navajo Police Department and subject to policies regarding review, reproduction, release, production, retention, deletion, and disposal.
2. **DIGITAL EVIDENCE SHALL NOT BE;**
  - a. Deleted except as allowed by this general order;
  - b. Altered or tampered with; or
  - c. Accessed, copied, edited, or released without proper approval or as permitted by law.
3. **DISSEMINATION/RELEASE OF DIGITAL RECORDINGS**
  - a. Allowed only under the following circumstances:
    - i. For criminal justice purposes
    - ii. For training purposes, but only when approved by a division commander after input from the involved employee;
    - iii. Pursuant to an approved public records request;
    - iv. Pursuant to an applicable subpoena or court order;
    - v. For actual or potential civil litigation; or
    - vi. When approved by the Chief of Police.
  - b. **PUBLIC RECORDS REQUESTS:** Digital evidence may be subject to release pursuant to the *Navajo Nation Privacy and Access to Information Act* §§ 81-92. Exemptions from disclosure are the same as for any other departmental record. The Chief of Police shall designate the person or unit responsible for reviewing the digital evidence and determining whether any portion needs to be redacted prior to release. There are a number of factors to consider when reviewing any recording, which may include limitations and/or information that impacts the content of the recording. The review of any material has variables that may not be evident in the recording. Consider the following factors:
    - i. A camera does not follow the officer's eyes or see as they see;
    - ii. There may be subtle and peripheral danger clues not recorded by a camera;
    - iii. Camera speed differs from the speed of life;
    - iv. Variations in lighting may impact the human eye and camera differently;
    - v. The camera may likely be blocked at times by an officer's body or other obstacle present at a scene;
    - vi. A camera only records two dimensionally;
    - vii. There are factors relating to time stamping and delays that may

- impact precise timing; and
- viii. Cameras may only be part of the picture and may not be conclusive, and will not replace a thorough investigation.
- c. **CASE SUBMITTALS WITH BWC DIGITAL EVIDENCE:** Body worn camera evidence does NOT have to be attached. Ensure the Offense report indicates the availability of the evidence.
- d. **CASE SUBMITTALS WITH NON-BWC DIGITAL EVIDENCE:** The case agent and supervisor will ensure a copy of all non-BWC digital evidence is included when the case is submitted to the prosecutorial agency for review.
- 4. **DIGITAL EVIDENCE STORAGE AND RETENTION**
  - a. All recordings will be kept in accordance with adopted retention guidelines.
  - b. Digital evidence will be retained and stored on the appropriate storage medium as authorized by the department.
  - c. All digital recordings shall be uploaded by authorized means, preferably by the end of each shift.
  - d. If a use of force and/or vehicle pursuit is captured on a digital recording device, copy the recording to portable media and make it available for the applicable administrative review process.
  - e. When an incident has been recorded and an offense report is generated, the officer shall:
    - i. Note in the first sentence of the narrative that a portion of the incident was captured by a digital recording system;
    - ii. Note the recording in any police document pertaining to the incident, such as use of force or pursuit forms; and
    - iii. Transfer recorded data onto the appropriate storage medium.
  - f. Recordings captured during the scope of an officer's duties, whether on department approved or privately owned digital recorders, may be subject to release under applicable federal and Navajo Nation laws or pursuant to court rules.
  - g. Retention Periods

<b>Category</b>	<b>Retention Schedule</b>
Administrative/Default	90 days
Crash	90 days (3 months)
DUI	365 days (1 years) 180 days (6 months) upon completed prosecution
Major Crime Act Offense Report	Homicides Indefinite if not closed. 3650 days (10 years) upon completed prosecution. Other: 1095 days upon Closed Classification 1095 days (3 years) upon completed prosecution
Criminal Incident	365 days (1 years) 90 days (3 months) upon completed prosecution
Traffic	365 days
Use of Force	365 days (1 year)
Formal Complaint	365 days (1 year)

- h. Upon written request by a BWC data subject, the Department will retain a recording pertaining to that subject for an additional time period up to

90 days. The department will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.

- i. **STORAGE OF BWC DIGITAL RECORDINGS:** Digital recordings automatically upload to the server when the camera is placed in the docking station. All recordings should be tagged with the following information:
  - i. LOG NUMBER – Log number or other identifying incident number;
  - ii. CATEGORY – The appropriate category type to ensure the digital recording follows established retention guidelines. Multiple categories may be added to a recording.
    - i. Administrative / Default.
    - ii. Crash.
    - iii. DUI.
    - iv. Major Crime Act Offense Report.
    - v. Incident.
    - vi. Misdemeanor Traffic.
  - iii. COMMENT – description of the incident and or person interviewed.
- j. **STORAGE OF DIGITAL AUDIO RECORDINGS:** Upload audio recordings to V:\Officer\<your user name>. Rename each recording:
  - i. Criminal Cases – Log number or other identifying incident number (e.g., 17-12345 Begay)
  - ii. Traffic Stops – TSTOP (e.g., tstop Tsosie)
  - iii. Subject Stops – SSTOP (e.g., sstop Yazzie 1019 N AZ)

## H. DELETION/REDACTION OF BWC DIGITAL RECORDINGS

1. **DELETION OF DIGITAL RECORDINGS:** When a recording is made and has no evidentiary or administrative value, serves no legitimate governmental purpose, and does not constitute a public record (e.g., device inadvertently left on during restroom break or overnight after end of shift) it may be deleted as follows:
  - i. An employee requesting a file to be deleted submit a memo of explanation to their commander;
  - ii. The affected commander makes a determination and forwards the memo to the Technology Manager to complete the request; and
  - iii. The memos are retained by the affected commander.
2. **RETENTION:** Software will automatically purge files based on a categories predetermined retention schedule. Officers will receive notice seven days prior to any files being purged.
3. **REDACTION:** If digital recordings are required to be redacted prior to release;
  - i. The designated person or unit will review the evidence and remove any portions not subject to release.
  - ii. If there are questions or concerns about redaction, contact your supervisor.  
After review, upload the redacted copy onto the appropriate storage medium under the applicable GO or street check number and retain for future reference.
  - iii. The redacted version should be made available to the involved employee(s)

**I. TRAINING**

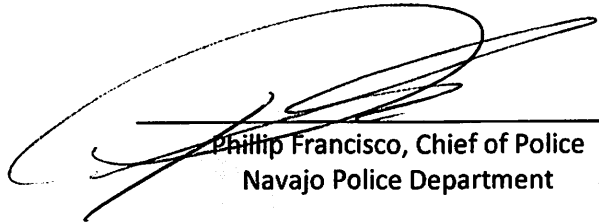
**OFFICERS AND SUPERVISORS SHALL COMPLETE DEPARTMENT-APPROVED TRAINING** prior to deploying a digital recording device, including:

1. Knowledge of department policies and procedures regarding all aspects of proper use of digital recording devices, as well as the storage and retrieval of digital recordings; and
2. Demonstrated proficiency in the use of the device and the storage and retrieval of the recordings

**J. SUPERVISORS**

1. Ensure officers utilize the BWC system according to policy guidelines;
2. Ensure digital evidence is uploaded to digital evidence storage in a timely fashion;
3. When responding to a citizen complaint, record the encounter and, unless impractical, advise the member of the public they are recording;
4. May use the recording captured by a BWC to resolve questions, concerns, or complaints;
5. In the event a formal complaint is made, change the category to restricted and make notes within that category.

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Phillip Francisco, Chief of Police  
Navajo Police Department

## **CHAPTER 3029: BODY-WORN CAMERAS, PORTABLE AUDIO RECORDERS, AND IN-CAR VIDEO SYSTEMS**

### **A. PURPOSE**

The purpose of this policy is to provide officers with guidance on the proper use of body-worn cameras, portable audio recorders, and in-car video systems, and on the proper storage, management, and use of the data and metadata recorded on that equipment.

### **B. POLICY**

It is the policy of the Department to issue to each officer a body-worn camera (“BWC”) and a portable audio recorder (“PR”) and to install in-car video systems (“ICV Systems”) in all patrol vehicles, and for officers to use BWCs, PRs, and ICV Systems when such use is appropriate in accordance with this policy.

Use of BWCs, PRs, and ICV Systems or recordings therefrom for any purpose other than in accordance with this policy is prohibited. All recordings captured by Department-issued recording equipment are the exclusive property of the Department.

The Department recognizes that video images or audio recordings cannot always show a full encounter nor capture the full context of an entire scene. BWCs, PRs, or ICV Systems are not a replacement for thorough written reports.

BWCs, PRs, and ICV Systems are for Department use only and shall never be used for non-work purposes or personal activities. Officers shall only use those BWCs, PRs, and ICV Systems approved and issued by the Department and shall not use personally owned BWCs, PRs, or ICV System equipment on-duty, nor may they use BWC equipment that has been assigned to another officer.

### **C. DEFINITIONS**

1. Body-Worn Camera (“BWC”): An audio and video recording system designed to be worn on an officer’s body that captures Digital Multimedia Evidence.
2. Digital Multimedia Evidence (“DME”): Consists of all digital recordings captured by the Department’s BWCs, PRs, and ICV systems, including but not limited to audio, video, photographs, and their associated metadata. Metadata includes digital information associated with recording, such as date, time, and GPS coordinates.
3. In-Car Video System (“ICV System”): An audio/video recording device installed in a Department patrol vehicle used for the purposes of capturing DME.
4. Portable Recorder (“PR”): A Department-issued audio recording device that is small enough to be carried on an officer’s person.

## **D. PROCEDURES**

1. All officers shall wear Department-issued BWCs and PRs while on duty, for the duration of the officers' working hours. BWCs shall be worn above the midline of the officer's torso and in a front-facing position. BWCs and ICV System cameras shall be positioned to maximize the camera's ability to capture an interaction.
2. A PR should be used only when a BWC is not available or as a redundancy to a BWC, and in compliance with this policy.
3. The ICV System installed in a patrol vehicle is the responsibility of the officer assigned to that vehicle and will be maintained according to the manufacturer's recommendations and Department procedures .
4. Officers shall inspect and test their assigned BWCs, PRs, and ICV Systems prior to each shift to verify proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be assigned. Officers shall use BWCs, PRs, and ICV Systems with reasonable care to ensure proper functioning.
5. ICV Systems are designed to activate automatically when the patrol unit's emergency lights are activated, when the patrol unit's speed reaches 90 miles per hour, and when the patrol unit is in a crash. Once the ICV System is automatically activated, officers may manually turn off the ICV System only in accordance with this policy.
6. Officers shall manually activate their BWCs and ICV Systems whenever they are on duty and they are:
  - a. About to interact with a member of the public,
  - b. Responding to a call, performing a traffic stop, or engaging in a vehicle pursuit;
  - c. Assisting other officers in a back-up capacity; or
  - d. Engaged in any other official conduct where the officer reasonably believes that it may be useful to gather video or audio evidence.
7. If the immediate activation of the BWC/ICV System is not feasible due to risk to the safety of the officer or others, then the officer will activate the BWC /ICV System at the first available opportunity when it is safe to do so.
8. Whenever an officer fails to activate a BWC/ICV System, fails to record the entire interaction, or interrupts a recording of an interaction, the officer shall promptly prepare a report explaining why the recording was not made, was interrupted, or was terminated and describing in detail any incidents or interactions that were not recorded by the BWC/ICV System.

9. Once the BWC/ICV System is activated, the device shall remain activated until the officer reasonably determines that the circumstances requiring activation of the BWC/ICV System under this policy have concluded. This determination will depend on the type of incident and individual circumstances, but, typically, officers may cease recording after officers have terminated contact with the individuals involved or have left the scene.
10. If an individual asks whether the officer's BWC/ICV System/PR is recording, the officer shall ordinarily respond truthfully unless the specific circumstances necessitate otherwise.
11. Officers shall be aware of patients' rights to privacy when in hospital and medical settings. Officers shall not record patients during medical or psychological evaluations by a clinician or similar medical professional, or during medical treatment, even if directed to do so by medical staff, unless the officer believes a violation of law is occurring.
12. In the event a crime witness or a member of the community wishes to report or discuss criminal activity anonymously, officers have the discretion not to record.
13. Officers shall record interviews of crime victims, provided that, upon request by the victim, officers have the discretion not to record the interview. Officers may offer to avert their camera to capture only audio during the interview, when doing so would facilitate obtaining the victim's recorded statement.
14. Officers have no obligation to stop recording in response to a citizen's request. Officers shall ordinarily continue recording in accordance with these procedures unless otherwise directed by their supervisor.
15. Officers are not required to activate BWC/ICV System when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.
16. Officers shall note in incident, arrest, and related reports when recordings were made during the incident that is the subject of the report.
17. Department supervisors shall ensure that officers are equipped with BWCs, PRs, ICV Systems and shall periodically review DME to ensure that officers are using the devices appropriately and in accordance with Department policy.

## **E. TRAINING REQUIREMENTS**

1. Officers must complete Department-approved or Department-provided training prior to using a BWC, PR, or ICV System.
2. Officers shall also participate in periodic refresher training on updated technology and any changes to these policies and procedures as required by the Department.



**F. ACCESS TO DME**

1. DME may be viewed, downloaded, and shared only for legitimate law enforcement purposes and in accordance with this policy. DME shall not be shared with the media, the public, or any person without the authorization of the Chief, and for highly-sensitive matters, the authorization of the Governor. Requests for DME must be in writing.
2. The Evidence Custodian is the only person who may edit, alter, erase, duplicate, download, share, or distribute DME, and only pursuant to direction from the Chief and for official purposes only, in accordance with this policy.

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**I. Policy**

The Yavapai-Apache Police Department is to use the Portable Digital Recording Device (PDRD) in order to provide documentary evidence that includes, but is not limited to, criminal investigations, civil litigation and allegations of officer misconduct. Officers shall utilize this device in accordance with the provisions of this policy in order to maximize the effectiveness of audio/video documentation to achieve operational objectives and protocols and to ensure the integrity of evidence.

**II. Philosophy**

Portable Digital Recording Devices (PDRD) is intended to capture unbiased accounts of police and citizen interactions. Audio and Video recordings will provide officers with ability to review incidents prior to completing department reports, document the collection of evidence, enhance officer training, prevent and resolve complaints brought by the public and strengthen police transparency, performance and accountability.

**III. General Considerations**

- A. Video footage obtained from the PDRD may not depict everything in an officer's field of vision at the time of an incident. Additionally, everything depicted on video footage may not have been seen by the officer at the time of the incident.
- B. Digital evidence captured by the PDRD is not all inclusive. The system captures a less broad and less detailed image the totality of the human sense. An officer's recollection of specific details may be different than what is captured in digital evidence. Officers should review digital evidence prior to completing reports when necessary to ensure accuracy. Officers shall review digital evidence prior to providing testimony at hearings, trial or depositions.
- C. Officer Safety takes precedence over the recording events and shall be the primary consideration when contacting citizens or conducting vehicle stops.
- D. Accessing, copying, forwarding or releasing any digital evidence for other than law enforcement use and contrary to this policy is strictly prohibited.

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Public release of digital evidence is prohibited unless approved by the Chief of Police or designee.

- E. Personal computer equipment and software programs shall not be utilized when making copies of digital evidence. Using a personal recording device such as a video camera, cell phone or other devices to record or capture digital evidence from a PDRD is strictly prohibited.
- F. Officers shall prepare thorough and detailed incident reports. There shall be no substitute such as the language “refer to video” in the officer’s reports.
- G. Not all situations can be identified as to when officers should or should not record; therefore, an officer’s good judgment must always be used in addition to policy.

**IV. Procedure**

- A. Unauthorized use, duplication and or distribution of PDRD files are prohibited.
- B. Only trained officers shall operate PDRD equipment.
- C. Officers shall not remove, dismantle or tamper with any hardware/software component or part of the PDRD. Unless authorized their immediate supervisor.
- D. Officers will use only PDRD equipment provided by the Yavapai-Apache Police Department.
- E. All officers assigned to a PDRD shall activate the device to record all contacts with citizens in the performance of their official duties (e.g., calls for service, traffic incidents, etc.). Officers shall also activate their PDRD during emergency or pursuit operations. Officers are reminded to turn on the PDRD prior to arrival or start of contact (e.g., when observing a violation or upon arrival at a call) to record the event in its entirety.
- F. Once activated, the recording shall not be intentionally terminated until the conclusion of the incident.

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1. Recording Exceptions

- a. Activating the PDRD in the midst of a dynamic event (e.g., pursuit) will only be expected if/when it can be done safely.
  - b. If during the course of an investigation an officer needs to meet with a supervisor or other officer to discuss investigatory strategies outside the presence of those citizens involved in the accident, the camera may be turned off. Prior to turning the camera off a component should be recorded explaining that the camera will be turned off for this purpose. Once the discussion is complete and the officer is back with the citizen, the camera will be turned back on.
  - c. Officers shall not knowingly record confidential informants or undercover officers.
- G. While working off-duty assignments, officers who have been assigned PDRD shall wear and utilize the device in accordance with the provisions of this policy.
- H. Officers will not allow citizens to review the recordings
- I. Officers shall not access, copy or release PDRD recordings for other than official law enforcement purposes.
- J. The PDRD will not be activated in places where a reasonable expectation of privacy exists, such as dressing rooms or restrooms.
- K. Officers are not required to obtain consent from a private person when:
1. In a public place
  2. In a location where there is an expectation of privacy (e.g., inside a building or dwelling) but the officer is lawfully present.
- L. Officers shall activate citizens they are being recorded, when practical, as a means to de-escalate contacts with community members and provide an accurate account of events.

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1. Consensual contacts do not require an admonition to the citizen that they are being recorded: officers may do so at their discretion.

M. Personal Conversation Recording Prohibitions

1. Officers will not intentionally record conversations of fellow members, with or without their knowledge, during routine, non-enforcement related activities, to include:
  - a. While on breaks.
  - b. During report writing.
  - c. Discussing a case with other YAPD employees.
  - d. During other administrative functions.
  - e. During general discussions with YAPD employees
2. As soon as practical, Officers will advise other Department members and or/ YAN Government employees, criminal justice personnel (prosecutors, judges, or other law enforcement personnel)

N. Request for deletion of Accidental Recording

1. In the event of an accidental activation of the PDRD and the resulting recording is not of investigative or evidentiary value, officers may request that the PDRD file be deleted by submitting a memorandum request through the chain of command to their supervisor who shall review the file, sign the request and forward to the Sergeant Administrator of the PDRD.

V. Responsibilities

A. Sergeant Administrator

1. The Sergeant Administrator shall be designated by the Chief of Police or designee and shall have oversight responsibilities to include, but not limited to, the following:
  - a. Operation and user administration of the system
  - b. System evaluation
  - c. Training

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- d. Policy and procedure review and evaluation
- e. Coordination regarding system related issues.
- f. Ensure the PDRD files are secured and maintained in accordance with public records retention guidelines.
- g. Ensure PDRD files are reviewed and released in accordance with federal, state, local, and tribal statutes and Department policy.

**B. Officers Responsibilities**

- 1. Ensure the battery is full charged and operating properly at the beginning of their shift.
- 2. Work with the Sergeant Administrator to assess the systems effectiveness and to make recommendations for operational improvements and revisions to policy and procedure.
- 3. Document every use or non-use of a PDRD on one of the following:
  - a. Appropriate Incident/Accident Report
  - c. A notation on a citation.
  - d. On a field interview card.
  - e. Spillman call notes attached to an incident (e.g., self-initiated activity).
  - f. Any accidental activation should be handled as outlined in "Recording Exceptions section N".
- 3. Proper care of all Department property and/or equipment assigned to the officer.
- 4. Immediately report any loss of, damage to , any part of the PDRD equipment to the Sergeant Administrator.

**VI. Operating the PDRD**

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- A. Officers shall test the PDRD equipment prior to going into service to ensure the unit is properly charged (steady green light).
- B. Officers shall appropriately position the camera on their uniform or equipment to facilitate the recording.
- C. Manual activation is required to activate the PDRD.
- D. Officers shall upload PDRD data files no later than at the end of each shift at any upload/ charging docking station.
  - 1. To ensure storage capacity is not exceeded and to view uploaded audio/video.
- E. Once the data is uploaded in its entirety; officers will tag the segments of evidentiary value and label each with the assigned incident number in accordance with the protocol for evidence storage.

**VII. Officer , Supervisory and Investigatory Review of the PDRD**

- A. Once uploaded to the serve, officers may view their own audio/video data (e.g., to verify and identification, a vehicle license number or to review an incident for statement accuracy) at a Department desktop computer by logging into the server.
- B. Supervisors/Sergeants conducting internal investigations, Criminal Investigators, Field Training Officers or other delegated persons may review the PDRD data in order to investigate allegations of misconduct or evaluate the performance of a subordinate.
- C. The YAPD Department may also conduct reviews of PDRD data as part of an overall quality assurance program to identify training needs, recognize exceptional performance and ensure compliance with Departmental policy.

**VIII. PDRD File Requests**

- A. Law Enforcement Department Requests
  - 1. To make a department request (to include requests from the Tribal Prosecutors office, County Attorney's Office, Assistant United States Attorney's Office, Federal Bureau of Investigations, Bureau of Indians Affairs) for a PDRD file, the

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requestor shall forward a written request with sufficient information to locate the PDRD file to the Sergeant Administrator.

B. Non-Department Requests

1. All other request for a PDRD shall be accepted and processed in accordance with the provisions of the YAPD policies and procedures.
2. A request for a PDRD file from the Public Defender's Office or a party in a civil action shall require going through discovery from the Tribal, State or Federal Attorney, through the form of a subpoena or a public records request.

C. Retention and Public Release

1. All PDRD recordings captured using Department equipment shall be the property of the Yavapai-Apache Police Department and be a considered a record of the Yavapai-Apache Police Department.
2. The release of information requested through a public records request will be subject to the same statutory exemptions as any other Department record.
3. ?????????????????? Need to Discuss????????????????????

D. Copying Procedures

1. A Copy of the PDRD file can be made by members requiring a PDRD file as evidence in Tribal/Federal/State Court.
  - a. Provide copies to the appropriate prosecutors for the case.
  - b. Originals will always stay within the storage system set up for the PDRD at the Yavapai-Apache Police Department.

E. Investigators Conducting Criminal or Internal Investigations

1. Advise the System Administrator to restrict disclosure of the



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PDRD when necessary.

2. Document the reason for access by entering the DR or CI case number into the “add comment section” field prior to viewing.
3. The PDRD file may be duplicated for as evidence for internal investigations.

F. Training uses for the PDRD

1. A person who recommends utilizing a PDRD file for training shall submit the recommendation through the chain of command to the Training Sergeant.
2. If the Training Sergeant sees the training value in the video, a recommendation will be made through the chain of command to utilize the video in a training capacity.
3. Upon approval, the Training Sergeant will determine how best to utilize the PDRD file considering the identity of the person(s) involved, sensitivity of the incident and the benefit of utilizing the file.
4. PDRD files can be used in a training capacity only upon completion of all criminal court action. In additions the YAN Attorney General’s Office must approve any use of a PDRD file that captures an incident involved in civil litigation.

**IX. Repair Procedures**

- A. Officers shall immediately report any recognized problems with the PDRD to their immediate supervisor.
- B. Upon notification, the supervisor shall contact the Sergeant administrator stating the problem/malfunction and which officer is requesting the repair.