

**COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK**

GENERAL ORDER MULTI BUREAU	DATE OF ISSUE APRIL 18, 2022	EFFECTIVE DATE APRIL 18, 2022	NO. 103-22
SUBJECT: GENERAL ORDER Body Worn Cameras (BWC)		DISTRIBUTION All Personnel	AMENDS
REFERENCE: NYSLEAP 41.3			RESCINDS 103-21

Purpose: To establish policy and procedure for the Monroe County Sheriff's Office (MCSO) members on the use and activation of Body Worn Cameras (BWC). This policy is intended to provide MCSO members with instructions on when and how to use BWC so members may reliably record their interaction with the public, incarcerated individual population, and civilians in accordance with the law.

Policy: It is the policy of the MCSO that member's shall activate the BWC when such use is appropriate in the performance of the member's official duties and consistent with MCSO policy and the law. This policy does not govern the use of surreptitious recording devices used in undercover operations.

Definitions: Body Worn Camera (BWC) - is a video recording system that is utilized by law enforcement to record interactions.

Category – A designation for an event(s) captured on BWC, that have data retention rates (Appendix A) automatically attached to them.

Program Administrator- The Major of Police and Jail Bureau Operations and/or designees will act as the Program Administrator.

Project Manager-The Information Services Project Manager assigned to the MCSO, or the Sheriff's designee, will act as the Project Manager.

I. Policy Objectives:

A. Administration: The MCSO has adopted the use of the BWC to accomplish several objectives. The principal objectives are as follows:

1. To assist with the documentation of potentially contentious interactions with the public, civilians, incarcerated individual population, crime scenes, evidence gathering, arrests and critical incidents.
2. Audio and video recordings enhance MCSO's ability to review probable cause for arrest, member and suspect interaction, evidence for investigative, prosecutorial purposes and to assist with the accuracy of members' reports and/or testimony in court.
3. The BWC can be utilized to take still photography photos and record audio/video while documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

4. BWC recordings are made for the purposes set forth in Section I of this General Order and are not for the purpose of arbitrarily subjecting members to discipline while performing their normal duties. Accordingly, without cause, BWC recording shall not be accessed for the sole purpose of disciplining members.
5. All data, recorded by the BWC are the exclusive property of the MCSO. Accessing, copying or releasing files and/or images for non-law enforcement purposes is strictly prohibited.
6. Requests for BWC footage (i.e., for training purposes, AAR's etc.) will be made to the respective bureau's Program Administer and/or designee.
7. BWC footage may be released to the public with the approval of the Sheriff and/or designee.

II. Procedures

A. When to use the BWC:

1. Members of the Police Bureau equipped with a BWC, will activate the BWC during all traffic stops, foot and vehicle pursuits, Priority A calls, demonstrations, enforcement actions, detention/stop of person(s), prisoner transports (including MHA), subject managements, during in person interactions with person(s) that are suspected of being involved in an incident where violation of the law may have occurred, whenever there is risk of serious physical injury or death to a person, and when directed to do so by a supervisor. The use of the BWC is not limited to the above mandatory situations and is intended to capture all potentially contentious interactions with the public.
2. Members of the Jail Bureau equipped with a BWC, will activate the BWC when responding to codes, subject managements, QET/SRT activation, any incident that could cause disruption with the care, custody, control and good order of the facility and when directed to do so by a supervisor. The use of the BWC is not limited to the above mandatory situations.
3. The BWC will not be activated for voyeuristic purposes.
4. Members will activate the BWC as soon as it is safe to do so. Members may inform individuals they are being recorded unless doing so would be unsafe, impractical, or impossible.
5. Once the BWC is activated it will remain activated for the duration of the preliminary investigation/event. The recording may be suspended when outside the presence of citizens.

Note: If a cooperative individual (other than a suspect) requests the member cease recording, the member may use their discretion to comply with the individual's request, unless it will hinder with the ongoing investigation/event.

6. If interruption in the recording occurs (outside of restrictions in Section C), the member will document the reason for the interruption and/or termination of recording within the written report, if one is generated. If a member believes it is necessary to stop recording (e.g., talking to victim of a sexual assault or a confidential informant) within the constraints of policy, the member may verbally indicate their intent to stop recording before stopping the BWC. Upon reactivation of the BWC, state that the camera was restarted.

7. Members of all bureaus may refrain from activating the BWC if the member or another person is involved in an unforeseen hazardous situation, and activating the BWC is impractical.
 8. A member on a specialized team/unit, during an activation will receive guidance for the use of the BWC from the Incident Commander, in accordance with II. A.I.
 9. Off-duty members responding to a scene, for an emergency call in, are not required to equip themselves with a BWC prior to responding to the scene.
 - * 10. When strip searches are conducted following a significant incident, or with an uncooperative, unpredictable or resistive incarcerated individual, or when the possibility of an allegation of misconduct arises from the search. This may dictate the need for the Body Worn Camera.
- B. Procedures for the use of BWC:
1. All members utilizing a BWC must complete the MCSO approved training program to ensure proper use and operation. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
 2. MCSO members will only use BWC issued by the MCSO. The BWC equipment and all data, images, video, and metadata captured, recorded or otherwise produced by the BWC are the sole property of the MCSO.
 3. BWC equipment is the responsibility of the individual member and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the members' supervisor as soon as possible so a replacement unit may be procured, if available.
 4. Members will note in an incident, arrest, and related reports whenever recordings are made during the incident in question. The member will reference the name of the BWC system the data is captured on. BWC recordings are not a replacement for written reports.
 5. Members may review BWC videos to assist with the preparation of written reports and to prepare for their testimony for court proceedings. Each time BWC video is viewed members will document the reason for the viewing within the BWC system, to include a detailed narrative when selecting the "other" tab.
 6. Written requests for sealing of all, or portions of, recordings (e.g., in the event of a personal recording) must be submitted utilizing MB-186 Request to Seal Body Worn Camera Data Form and shall be approved or denied by the Undersheriff and/or designee in accordance with current policies and in accordance with New York State record retention laws. All written requests shall be kept on file in the office of the Undersheriff.
 7. Members are required to fill out the BWC Contact Form within the system associated with the video. A category must be selected for each recording; multiple categories may be assigned to each recording. Police Bureau members will document the CR# for every recording. When an individual is arrested, the member will record the arrested individual's names on the BWC Contact Form. The format must be two digits for the year, followed by a hyphen, and ending with six (6) digits (i.e., 20-000001). Jail

Bureau members, must use either an IJ5#, CR# or when not applicable, document NA. The IJ5# format must be two digits for the year followed by a hyphen, and ending with eight (8) digits (i.e., 20-00000001). If more than three (3) CR# or IJ5# are required, additional ones can be recorded in the notes and memo field of the form.

C. Restrictions:

1. BWC shall be used only in conjunction with official law enforcement duties. Members will not use the BWC to record the following situations, unless directed by the member's supervisor, or unless an immediate law enforcement need is identified by the member:
 - a. Either openly or surreptitiously internal law enforcement conversations, administrative and/or tactical conversations/discussions, conversations between supervisor and subordinate, communications with other law enforcement personnel, roll calls, internal investigations, operational briefing, debriefing of an incident with a supervisor and counseling sessions; without the permission of the Sheriff or his/her designee or the person being recorded.
 - b. Encounters with undercover officers or confidential informants.
 - c. Personal activity, both on and off-duty.
 - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
 - e. Inside law enforcement facilities such as police stations (excluding designated MCSO prisoner holding areas), and courts during official judicial proceedings unless it is necessary to record interactions with subjects/suspects or if authorized by a supervisor.
 - f. Any training MCSO personnel receive or take part in such as firearms, defensive tactics, EVOG or classroom settings (unless authorized to do so by a command officer in staff services).
 - g. When victims or witnesses are reluctant to provide information while the member's BWC is recording.
 - h. In or assigned to a command post, unless authorized by the Incident Commander.
2. Members are prohibited from doing the following:
 - a. Alter, erase, duplicate, copy, share or otherwise distribute in any manner BWC recordings.
 - b. Access, copy or release any media obtained using BWC for reasons other than official law enforcement purposes except as required by law.
 - c. Allow civilians to view recordings without the approval of the Sheriff or his/her designee, except as required by law.
 - d. Possess the BWC, associated equipment or accessories while off-duty without authorization from the Program Administrator and/or designee.

- e. Writing notes to the bookmarks of a BWC video.
 - 3. Specially Deputized Task Force Officers deputized by, and detailed to, the U.S. Marshall's Task Force shall also abide by those requirements as outlined in the current M.O.U. between the MCSO and the US Marshall Service/DOJ.
 - * 4. Review of Body Worn Camera footage of a strip search is prohibited, unless authorized by a Lieutenant or higher rank. The authorization and reason for the review will be documented on a Special Report and submitted through the chain of command.
- D. Supervisory Responsibilities:
- 1. MCSO supervisors will ensure all members who have received the appropriate BWC training, will equip themselves with a BWC, if available. If additional BWC are available, the shift supervisors shall equip themselves with one.
 - 2. MCSO supervisory personnel will ensure members equipped with a BWC utilize it in accordance with policy and procedure defined herein.
 - 3. MCSO Supervisors designated by the Sheriff or his/her designee shall review BWC recordings to ensure the equipment is operating properly, that all data was assigned a category, members are using the devices appropriately and in accordance with policy and procedure; as well as to identify any areas in which additional training or guidance is required.
 - 4. In an event, which has been deemed as a serious incident by a supervisor (such as the use of deadly physical force), the supervisor will immediately request the services of a Technical Service Unit (TSU) Technician. As soon as practical, the supervisor will take custody of the members BWC. The supervisor will maintain initial security of the BWC and subsequently relinquish control to the responding technician from TSU.
 - 5. When a supervisor has been advised that a BWC is not functioning properly, the supervisor will ensure the BWC is replaced, if one is available. The supervisor will take the malfunctioning BWC out of service, and see it is delivered to the BWC Project Manager.
 - 6. BWC will not be permanently assigned to a specific member without the authorization of the Program Administrator.
- E. Storage:
- 1. All recordings will be securely uploaded to the prescribed digital evidence software solution, at the completion of each shift. Each recording shall contain information related to the date and unique identifier. Mandatory information will include labeling the data with a category, and a CR#/IJ5# (multiple CR# may be used), if one has been generated. Other data fields in the digital evidence solution software are available for members to utilize.
 - 2. In the event the category of an incident captured on the BWC needs to be updated due to a change in the case/incident, the operator of the BWC at the time of the recording will be responsible to make the changes to ensure proper data retention.
 - 3. Access to BWC files, not falling within guidelines of this order, must be authorized by the Sheriff or his/her designee. All actions by users who access the BWC storage system are recorded within the system. User activity will be subject to an audit to ensure compliance with this order.

4. Data from the BWC, will be stored in accordance with current agency policy and New York State records retention law. Unless otherwise directed by law, categories and corresponding retention schedules are in Appendix A.

F. Evidentiary Procedures:

1. When an arrest/investigation is captured on a BWC, written documentation will be in the form of an incident report, arrest report, or other electronic means approved by the Sheriff.
2. Prior to writing an incident, crime, fleet damage, or subject management report, and/or testifying about their own recording of an incident, a member may review their own associated BWC recording. A member may view their own a recording with his or her attorney and/or labor representative prior to an I.A. interview. The viewing will be facilitated by the I.A. Commanding Officer.
3. Pursuant to a valid FOIL request, a Program Administrator, in consultation with Sheriff's Counsel, will facilitate release of requested data.

G. Freedom of Information (FOIL Requests)

1. Body worn camera that is determined by Sheriff's Counsel to be releasable via Freedom of Information Act, will be redacted to remove or blur any of the following:
 - a. Contains images of any areas of a medical facility, counseling, or therapeutic program office;
 - b. Contains information that meets the definition of protected health information;
 - c. Contains images of the interior of the place of residence where a person has a reasonable expectation of privacy;
 - d. Contains "intimate" images such as nudity, partial nudity, and sexually explicit content;
 - e. Contains images of an identifiable minor;
 - f. Contains images of a deceased person;
 - g. Contains the identity or communications from a victim or witness of an incident involving domestic violence or sexual assault;
 - h. Contains images from an incident where a domestic violence or sexual assault victim or witness indicates a desire for non-disclosure of their recorded identity or communications;
 - i. Contains any other non-public privacy information otherwise to be withheld from disclosure via applicable FOIL law.
 - j. Contains images or information to the safety and security of the facility.
2. BWC footage obtained from Specially Deputized Task Force Officers of the U.S. Marshall Task Force may be released via FOIL requests only pursuant to the guidelines as established in the current M.O.U. between MCSO and the U.S. Marshall

Service/DOJ.

By Order of the Sheriff,

Todd K. Baxter

Appendix A

Category	Retention Rate
Violation/Traffic Stop/UTT	2 years
Unattended Death/Natural Causes - Released by M.E. at scene	1 year
Training	2 years
Tech Work	Indefinite
Subject Management	10 years
Shakedown	1 years
Recorded in Error	6 months
QET Activation	2 years
MVA - Non Fatal or Criminal	5 years
Missing Person	2 years
Misdemeanor Report/Arrest	10 years
Mental Hygiene Transport	4 years
K-9 Incident	5 years
Jail Code (1, Blue, Red)	2 years
Incident/FIF	4 years
Homicide/Crucial Incident or Event	Indefinite
High Risk Transport - Without Incident	1 year
General Storage	1 year
Felony Report/Arrest	25 years
Employee Injury	25 years
Domestic Report Only	4 years
Deaths (Fatal MVA's, Suicide, etc.)	25 years
Death During Police Encounter (Use of Deadly Force, Fatal MVA, In Custody Death)	Indefinite
Critical Incident/Major Event/Serious Physical Injury	25 years
Cell Block / Unit Disruption / Refusal to Lock In	3 years
Civilian/Incarcerated individual Complaint	4 years

* - Extend Retention Period: Any category can be extended within the system without changing the category (i.e., Missing Persons). The extension can only be removed by an Administer.

As of June 25, 2020