

## Body-Worn Cameras

### 434.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of a body-worn camera (BWC) by members of this department and for the access, use, and retention of department BWC media.

The provisions of this policy, including notice, documentation, access, and retention, also apply to other portable audio/video recording devices used by members, where applicable.

This policy does not apply to undercover operations, wiretaps, or eavesdropping (concealed listening devices).

This policy is intended to promote constitutional policing, accountability, transparency, and public trust.

#### 434.1.1 DEFINITIONS

Definitions related to this policy include:

**Activate** - To place a BWC in active mode (also called event mode). In active mode, the BWC records both video and audio.

**BWC media** - The video, audio, and images captured by department BWCs and the associated metadata.

**BWC media systems** - Any software, including web-based programs and mobile applications, used by the Department to upload/download, store, view, transfer, and otherwise maintain BWC media.

**Deactivate** - To place a BWC in buffering mode (also called ready or pre-event mode). In buffering mode, the BWC records video (without audio) in short, predetermined intervals that are retained only temporarily. However, when a BWC is activated, the interval recorded immediately prior to activation is then stored as part of the BWC media. Deactivate does not mean powering off the BWC.

**Event** - A general term referring to a set of circumstances that may, but does not necessarily, correlate directly to a single public safety incident.

### 434.2 POLICY

It is the policy of the Department to use BWCs and BWC media for evidence collection and to accurately document events in a way that promotes member safety and department accountability and transparency while also protecting the privacy of members of the public.

### 434.3 RESPONSIBILITIES

#### 434.3.1 BWC COORDINATOR RESPONSIBILITIES

The Chief of Police or the authorized designee should delegate certain responsibilities to a BWC coordinator.

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The responsibilities of the coordinator include:

- (a) Serving as a liaison between the Department and the BWC manufacturer/distributor and any third-party media storage vendor.
- (b) Developing inventory procedures for issuing and tracking BWC equipment, including properly marking BWCs as property of the Department and recording the date each BWC is placed into or taken out of service.
- (c) Assisting with troubleshooting and maintenance of BWC equipment and media systems and, when necessary, coordinating the repair or replacement of BWCs.
  - 1. All equipment and system malfunctions and their resolutions should be documented, and maintenance and repair records should be maintained for all BWCs.
- (d) Managing BWC media systems so that:
  - 1. Access is limited to the minimum necessary authorized users and user privileges are restricted to those necessary for the member to conduct assigned department duties.
  - 2. Security requirements, such as two-factor authentication and appropriate password parameters, are in place for user credentials.
- (e) Configuring BWC media systems, or developing manual procedures, so that media is appropriately categorized and retained according to the event type tagged by members.
- (f) Retaining audit logs or records of all access, alteration, and deletion of BWC media and media systems, and conducting periodic audits to ensure compliance with applicable laws, regulations, and department policy.
- (g) Developing and updating BWC training for members who are assigned a BWC or given access to BWC media systems.
- (h) Coordinating with the Chief's Office Executive Officer to:
  - 1. Provide the public with notice of the department's use of BWCs (e.g., posting on the department website or social media pages).
  - 2. Gain insight into community expectations regarding BWC use.
- (i) Coordinating with the Records Custodian to (see the Records Unit and Records Maintenance and Release policies):
  - 1. Determine and apply proper retention periods to BWC media.
  - 2. Develop procedures for the appropriate release of BWC media.
- (j) Coordinating with the Property Room to develop procedures for the transfer, storage, and backup of evidentiary BWC media (see the *Property Room Policy*).
- (k) *Completing an annual administrative review of the BWC program and providing it to the Chief of Police for review.*

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#### 434.3.2 MEMBER RESPONSIBILITIES

Every member issued a BWC is responsible for its proper use, safekeeping, and maintenance.

At the beginning of each shift or period of BWC use, the member should inspect their assigned BWC to confirm it is charged and in good working order.

Members should wear their assigned BWC on their outermost garment positioned at or near chest level and as close to the center of their body as practicable. Members are responsible for ensuring there are no obstructions and that the BWC remains in a position suitable for recording.

When a BWC is not in the physical possession of the member to which it is assigned, it should be placed on the charging dock and stored in a secure location.

Members shall report any malfunction or damage to the BWC coordinator or on-duty supervisor as soon as practicable and, if possible, obtain a functioning BWC to use either temporarily while repairs are being made to the member's BWC or as a permanent replacement.

#### 434.3.3 SUPERVISOR RESPONSIBILITIES

- (a) Enforce policy and procedure governing the use of all digital recording and control equipment.
- (b) Review video or audio recordings for officer-involved pursuits, use of force, show of force, or vehicle crashes as outlined under this policy.
- (c) Review video or audio recordings to address training needs and ensure policy compliance as outlined in this policy.
- (d) Will notify the BWC Coordinator of any system failures reported to them.
- (e) Secure camera from incidents eligible for video recall to ensure the download can be completed by the BWC Administrator.

#### 434.3.4 LIEUTENANT TO BUREAU COMMANDER RESONSIBILITIES

- (a) Perform audits once per scheduled work week on their personnel to ensure labeling compliance using the performance feature and other means of searching,
- (b) Notify the member and supervisor of any non-compliance and ensure corrections are made on the same working day.

#### 434.4 BWC USE

The following guidelines apply to the use of BWCs:

- (a) Only department-issued BWCs shall be used. Members are prohibited from using any other BWC without the express consent of the Chief of Police or the authorized designee.
- (b) BWCs should only be used by the member or members to whom it was issued unless otherwise authorized by a supervisor.
- (c) The use of department-issued BWCs shall be strictly limited to department-related activities.

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- (d) Members shall not use BWCs or BWC media systems for which they have not received prior authorization and appropriate training.
- (e) Members shall immediately report unauthorized access or use of BWCs or BWC media systems by another member to their supervisor or the Chief of Police.
- (f) All members who operate in a primarily uniformed capacity will be issued a BWC including other personnel working uniformed overtime or as determined by the Chief of Police or designee.
- (g) Investigations personnel will be issued a BWC except for personnel assigned to Crime Scene Investigations.
- (h) Task Force/Narcotic Officers will be issued a BWC at the discretion of the Bureau Commander.
- (i) Officers working extra duty employment (Secondary Employment and Law Enforcement Actions) shall use a BWC.

#### 434.4.1 PROHIBITIONS

BWCs should not be used to record:

- (a) Routine administrative activities of the Department that do not involve interactions with the public. Care should be taken to avoid incidentally recording confidential documents that the Department has a duty to keep secure (i.e., criminal justice information).
- (b) Areas within the department facilities where members have a reasonable expectation of privacy (e.g., locker rooms or dressing areas, breakrooms) unless responding to a call for service or conducting an investigation.
- (c) Conversations of other members without their knowledge.
- (d) When a member is taking an authorized break or otherwise engaged in personal activities.
- (e) In a courtroom unless responding to a call for service or emergency situation.
- (f) Interactions with undercover officers or confidential informants.
- (g) Strip searches.

BWCs shall not be used for the purpose of embarrassment, harassment, or ridicule of any individual or group.

#### 434.5 ACTIVATION OF BWC

Members shall activate the BWC to record all calls for service and during all law enforcement related encounters and activities that occur while the officer is on duty or during the course of extra duty except when doing so would be unsafe, impossible, or impractical. Members are not required to activate their BWC during casual or informal contacts with members of the public that are not part of or related to law enforcement functions. However, members should activate their BWC any time a contact with an individual becomes hostile or adversarial.

Examples of "law enforcement related encounters and activities that occur while the officer is on duty or during the course of extra duty" include:

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- (a) Traffic stops;
- (b) Investigative detentions;
- (c) Arrests;
- (d) Searches;
- (e) Pursuits;
- (f) When operating a vehicle in emergency mode (lights and siren activated);
- (g) Execution of any warrant or forced entry into a residence or other structure;
- (h) Interviews or Interrogations;
- (i) Any encounter with the public that becomes adversarial in nature after the initial contact;
- (j) Any time Topeka Police Department employee is involved in a vehicle crash. The responding supervisor shall activate their BWC while on scene.

Recordings should not be interrupted or prematurely terminated with exceptions in extremely limited circumstances:

- (a) With supervisor's approval;
- (b) When addressing personnel issues;
- (c) When addressing personal issues.

The BWC should be returned to Event Mode as soon as the above exceptions expire.

Unless otherwise authorized by this policy or approved by a supervisor, BWCs should remain activated in Event Mode until the call for service or law enforcement-related function has concluded. A member may cease recording if they are simply waiting for a tow truck or a family member to arrive, or in other similar situations.

At no time is a member expected to compromise their immediate personal safety to activate a body-worn camera (BWC). However, in all required recording situations, the BWC shall be activated as soon as reasonably practicable once it is safe to do so. This provision is intended to serve as a narrow, safety-related allowance, not as a blanket exception to the activation requirement. This acknowledges that members may encounter sudden, rapidly evolving, or high-risk situations where immediate activation could pose a danger. In such instances, delayed activation is permissible only until the threat has diminished to a point where activation can safely occur. This exception does not absolve the member of the duty to document the encounter.

Members shall be in Pre-Event mode when outside of the LEC or other secure law enforcement facilities not available to the public while on duty.

Sleep Mode can be used to extend the battery life rather than powering off the BWC. Sleep Mode may be utilized during:

- (a) Breaks in areas not available to the public.

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- (b) Completing reports or paperwork at the LEC or other secure law enforcement facilities not available to the public.

If sensitive recording is captured, the officer may send a request for redaction through the chain of command to the Bureau Chief.

Civilians shall not be allowed to review the BWC recordings at the scene.

#### 434.5.1 ACO BWC USE

ACO shall activate the BWC to record all calls for service and during all animal related encounters and activities that occur while the ACO is on duty except when doing so would be unsafe, impossible, or impractical.

Examples of animal control related encounters and activities include:

- (a) Animal calls (loose, injured, vicious) with reporting parties;
- (b) Animal neglected and abuse investigations;
- (c) Interviews;
- (d) Execution of any warrant; and
- (e) Any encounter with the public that becomes adversarial in nature after the initial contact.

#### 434.5.2 PROPERTY MAINTENANCE BWC USE

Property Maintenance shall activate the BWC to record work related activities to include:

- (a) Initial compliance check on residence;
- (b) Follow up checks on cases for violations;
- (c) Checks on condemned properties;
- (d) Service of warrants for abatements;
- (e) Initial observation through conclusion of citation on vehicles;
- (f) Inspections, and;
- (g) Contact with any occupants, landlords, and other interested parties while conducting business.

#### 434.5.3 INVESTIGATION EXCEPTIONS

Members may deactivate a BWC to interview victims of certain crimes where the knowledge of video recording could hinder a full statement, however, they shall be audio recorded, such as;

- (a) Sexual assaults, and;
- (b) Crimes against children.

BWCs do not need to be utilized when using interview room equipment such as in the LEC or Life House CAC.

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#### 434.5.4 NOTICE OF RECORDING

Unless otherwise approved based on unique circumstances, a member should wear the BWC in a manner that is conspicuous and shall answer truthfully if asked whether they are equipped with a BWC or if their BWC is activated.

#### 434.5.5 PRIVACY CONSIDERATIONS

Members should remain sensitive to the dignity of individuals being recorded and should exercise sound discretion with respect to privacy concerns.

When responding to a place where individuals have an expectation of privacy (e.g., private residences, medical or mental health facilities, restrooms) or to a sensitive situation (e.g., individuals partially or fully unclothed), members may deactivate their BWC when a compelling privacy interest clearly outweighs the public interest in recording. However, members shall activate their BWC during "law enforcement related encounters and activities that occur while the member is on duty or during the course of extra duty", as defined by this policy, even when in an area or situation considered private, or sensitive as described. Members may also deactivate their BWC:

- (a) To protect the medical privacy of a victim or witness.
- (b) When an individual wishes to provide information anonymously.
- (c) Upon supervisor approval.

#### 434.5.6 LIVESTREAMING

Livestreaming enables authorized individuals to remotely view the audio and video captured by a member's BWC in real time. All sworn members, approved by the Chief of Police or the authorized designee, should have access to livestreaming capabilities. Livestream access shall be logged through the BWC system.

Livestreaming should only be activated:

- (a) For purposes of member safety when the member is not responding to their radio or there is some other indication of distress.
- (b) To assist with situational awareness or tactical decisions during a significant incident such as, but not limited to, major crime investigation (homicide), an active shooter, hostage situation, or civil unrest.
- (c) Following the location of a pursuit.
- (d) When requested by the member.

Members should not use body-worn camera live streaming to directly influence, direct, or override a member's real-time decision-making regarding the use of force.

#### 434.5.7 DOCUMENTATION

Members are encouraged to provide narration while using a BWC when it would be useful to provide context or clarification of the events being recorded. However, the use of a BWC is not a replacement for written reports and should not be referred to in a written report in place of detailing the event.

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Every report prepared by a member who is issued a BWC should state "BWC available" or "BWC unavailable," as applicable, and should document:

- (a) To the extent practicable and relevant, the identity of individuals appearing in the BWC media.
- (b) An explanation of why BWC media is unavailable including any malfunction, damage, or battery issue that resulted in the failure of the BWC to capture all or part of the event.
- (c) Any exigency or other circumstances that prevented the member from immediately activating the recording at the beginning of the event.
- (d) Any period of the event in which the member deactivated or muted their BWC and the reason for such action.
  - 1. Members should also verbally state the reason the BWC is being deactivated before deactivating it.
- (e) If livestreaming was activated during the event, the reason for livestreaming and the members who communicated or participated in the event through BWC livestreaming.

#### **434.6 UPLOADING BWC MEDIA**

Unless otherwise authorized by a supervisor, all media from a member's BWC shall be properly tagged before the end of their shift. The BWC shall either be docked or have the media uploaded by the end of their shift. BWC media related to a serious or high-profile event (e.g., search for a missing child, active shooter situation) should be uploaded and tagged as soon as practicable upon returning to the Department.

Following an officer involved shooting or death or other event deemed necessary, a supervisor should take possession of the BWC and provide it to the BWC Coordinator or designee for processing.

##### **434.6.1 LABELING / CATEGORIZING BWC MEDIA**

Members shall label and categorize all media captured by their BWC with their name and/or identification number, the case or incident number in the ID field, and the event type in the category field. BWC media should be labeled/categorized upon uploading or, if capabilities permit labeling/categorizing in the field, as close to the time of the event as possible. If the BWC media applies to multiple categories, the media should be labeled using the event type with the longest retention period.

BWC media depicting sensitive circumstances or events should be categorized as restricted. Members should notify the BWC Coordinator or designee when the BWC media pertains to a significant event such as:

- (a) An incident that is the basis of a formal or informal complaint or is likely to result in a complaint.
- (b) When a member has sustained a serious injury or a line-of-duty death has occurred.
- (c) When a firearm discharge or use of force incident has occurred.

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- (d) An event that has attracted or is likely to attract significant media attention.

Supervisors shall conduct audits at regular intervals to confirm BWC media is being properly uploaded, labeled, and categorized by their subordinates.

#### **434.7 BWC MEDIA**

All BWC media is the sole property of the Department. Members shall have no expectation of privacy or ownership interest in the content of BWC media.

All BWC media shall be stored and transferred in a manner that is physically and digitally secure with appropriate safeguards to prevent unauthorized modification, use, release, or transfer. Contracts with any third-party vendors for the storage of BWC media should include provisions specifying that all BWC media remains the property of the Department and shall not be used by the vendor for any purpose without explicit approval of the Chief of Police or the authorized designee.

Members shall not alter, copy, delete, release, or permit access to BWC media other than as permitted in this policy without the express consent of the Chief of Police or the authorized designee.

BWC media systems should not be accessed using personal devices unless authorized by the Chief of Police or the authorized designee.

##### **434.7.1 ACCESS AND USE OF BWC MEDIA**

BWC media systems shall only be accessed by authorized members using the member's own login credentials and in accordance with the Information Technology Use Policy.

BWC media shall only be accessed and viewed for legitimate department-related purposes in accordance with the following guidelines:

- (a) BWC media tagged as restricted should only be accessible by those designated by the Chief of Police or the authorized designee.
- (b) Members may review their own BWC media for department-related purposes. If BWC footage is reviewed prior to completing a report, the member shall document the review in the report to support accuracy and clarity.
- (c) Investigators may review BWC media pertaining to their assigned cases.
- (d) A member testifying regarding a department-related event may review their recorded BWC media before testifying.
- (e) The Records Custodian may access BWC media when necessary to conduct department-related duties.
- (f) The BWC coordinator may access BWC media and the BWC media system as needed to ensure the system is functioning properly, provide troubleshooting assistance, conduct audits, and fulfill other responsibilities related to their role.

##### **434.7.2 SUPERVISOR ACCESS**

Supervisors are permitted to access and view BWC media of their subordinates:

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- (a) To investigate a complaint against an employee or a specific incident in which the employee was involved;
- (b) During the course of Departmental review of an officer-involved pursuit, use of force, show of force, and/or vehicle crash;
- (c) While a member is on a probationary period;
- (d) During a random automated review provided to the supervisor by the BWC system; or
- (e) When authorized by the Chief of Police.

#### 434.7.3 TRAINING ACCESS

The Training Director is permitted to access and view BWC media for training purposes.

The Training Director shall receive reports from the Use of Force Review Board and the Accident/Pursuit Board upon completion of their reviews. The Training Director should use the reports to evaluate department performance and effectiveness and to identify specific areas where additional training or changes to protocols would be beneficial. Training Committee members may review BWC media as part of their review to identify training needs.

The Training Director may use BWC media for training purposes with the approval of the Chief of Police or the authorized designee. The Training Director should use caution to avoid embarrassing or singling out a member and, to the extent practicable, should seek consent from the members appearing in the BWC media before its use for training. When practicable, sensitive issues depicted in BWC media should be redacted before being used for training. The use of BWC media by the Training unit shall emphasize policy compliance, procedural improvement, and de-escalation practices.

#### 434.7.4 PUBLIC ACCESS

Unless disclosure is required by law or a court order, BWC media should not be released without redaction to the public if it unreasonably violates a person's privacy or sense of dignity or depicts the interior of:

- (a) A private residence.
- (b) A facility that offers health care, mental health or substance abuse treatment, or social services.
- (c) A school building.
- (d) Any other building in which public access is restricted or which implicates heightened security concerns.

The sensitive portions of the media should be redacted prior to the recording being released.

Requests for the release of BWC media shall be processed in accordance with the Records Maintenance and Release Policy. All requests shall be logged, including requester, date, purpose, and final disposition. The Records Custodian should review BWC media before public release. Custodian review shall limit confidentiality to sensitive information, such as:

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- (a) Images of minors
- (b) Personal contact information
- (c) Birthdates or other private identifiers of individuals depicted

All delays, denials, or redactions shall be logged and reported to the Chief of Police.

The Records Custodian should review BWC media before public release.

### **434.8 RETENTION AND SHARING OF BWC MEDIA**

Non-evidentiary BWC media shall be retained in accordance with state records retention laws.

Unless circumstances justify continued retention, BWC media should be permanently deleted upon the expiration of the retention period in a way that it cannot be retrieved. BWC media shall not otherwise be deleted by any person without the authorization of the Chief of Police or the authorized designee.

#### 434.8.1 RETENTION

BWC video/audio and Axon Capture photos are retained on Evidence.com according to the classification assigned.

Media retention schedule for each classification on Evidence.com will be set as follows:

- (a) Non-Evidence – 5 years
- (b) Evidence – 7 years
- (c) Homicide/SVU – Indefinitely or until such time digital storage is moved from current vendor to new solution.

#### 434.8.2 SHARING EVIDENTIARY BWC MEDIA

BWC media relevant to a criminal prosecution shall be exported from the BWC media system and securely transferred to digital evidence storage according to established department procedures. Evidentiary BWC media is subject to the same laws, policies, and procedures as all other evidence, including chain of custody, accessibility, and retention periods (see the *Property Room Policy*).

Sharing Evidence.com with District or City Attorney Offices and other agencies.

- (a) All Evidence.com items under a case number shall be shared with the District Attorney's office when a case is referred for prosecution. This shall be handled by the case detective or other Investigations Bureau personnel as directed.
- (b) Cases for the United States Attorneys' Office and sharing with outside agencies shall be done by the Axon Administrator or designee through Evidence.com for tracking purposes.

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### **434.9 VIDEO RECALL**

The BWC is continuously buffering, and this buffered video can be extracted through video Recall and could include up to the previous 18 hours of video at a lesser quality (480p) and no audio when the camera is in Pre-event Mode.

Video Recall must be done with the camera connected to View XL and can only be done with correct permissions in evidence.com.

Video Recall will only be used at the direction of the Bureau Commander or above. The members involved should be notified. In the event the member is unable to be contacted, the FOP will be notified, Subsection f & g are exceptions to the involved member notification process.

Video Recall may be used, specifically and narrowly in scope in the following events:

- (a) OIS;
- (b) Member injury;
- (c) Use of Force;
- (d) Motor vehicle collisions involving a member;
- (e) Approval of the member.
- (f) A criminal investigation where the member is the subject of the investigation; or
- (g) Investigation of serious misconduct, when authorized by the Chief.

### **434.10 TRAINING**

The BWC coordinator should ensure that each member issued a BWC receives initial training before use, and periodic refresher training thereafter. Training should include:

- (a) Proper use of the BWC device and accessories.
- (b) When BWC activation is required, permitted, and prohibited.
- (c) How to respond to an individual's request to stop recording.
- (d) Proper use of the BWC media systems, including uploading and tagging procedures.
- (e) Security procedures for BWC media, including appropriate access and use.

Members who are not issued a BWC but who have access to BWC media systems shall receive training on the BWC media system, including appropriate access, use, and security procedures. Training materials shall be reviewed and updated annually to reflect changes in law, technology, policy, community expectations, and to incorporate lessons learned from audits and incident reviews.