1. Purpose

To provide employees with instructions on when and how to use body-worn cameras (BWC) so that they may reliably record contacts with the public.

2. Policy

Law enforcement agencies are increasingly utilizing a variety of audio/video technology to further the mission and to ensure professionalism. The Harford County Sheriff’s Office (HCSO) will use these devices as a means of furthering agency ability to conduct criminal investigations, administrative investigations, and review procedures and tactics. Employees will activate the BWC when such use is appropriate to the proper performance of his official duties, where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations.

3. Definitions

ACTIVATION: recording of both audio and video by switching the device from Pre-Event Buffering Mode to Event Mode.

ADVISEMENT: a statement made by an employee at the outset of using a BWC to record a communication, conversation, or interaction with a citizen. This statement is made for the specific purpose of informing the citizen that the communication or conversation is being recorded.

BODY WORN CAMERAS (BWC): systems designed to be worn by police officers to capture digital multimedia evidence both audibly and visually.

CLASSIFICATION TAG: a method used to mark and store BWC recordings for a specific purpose.

DEACTIVATION: to stop actively recording the event and return the device to Pre-Event Buffering Mode.

DIGITAL EVIDENCE MANAGEMENT SYSTEM (DEMS): a cloud based storage system used to store all BWC recordings.

DIGITAL MULTIMEDIA EVIDENCE (DME): all digital recordings, to include but not limited to audio, video, photographs, and their associated metadata.

EVENT MODE: actively recording video and audio in the BWC.

EVIDENCE TRANSFER MANAGER (ETM): a docking, charging, and data transfer unit.
METADATA: any digital identifiers that are captured as part of the actual recording, such as date/time, GPS coordinates, labeling, etc.

PERSON IN INTEREST: a person having a greater right of access to a recording than the general public.

PRE-EVENT BUFFERING MODE (PEBM): a continuous 30 second video-only recording which is captured as a part of the full recording once the device is placed in Event Mode (activated).

SUPPLEMENTAL LAW ENFORCEMENT SERVICES: Services approved by the HCSO through a Memorandum of Agreement with businesses or organizations who have requested the HCSO to furnish uniformed personnel for a particular event or at a certain location where special deployment of law enforcement protection is appropriate. When employees work in this capacity, they are serving as employees of the Sheriff, are under his direction and command, have full law enforcement powers and are authorized to use all necessary agency equipment. The HCSO is reimbursed for actual hours worked by law enforcement employees.

SYSTEM RECORDINGS: audio and / or video captured and uploaded by the BWC.

4. References

Katz v. United States (389 U.S. 347 (1967))

The Maryland Wiretapping and Electronic Surveillance Act, Md. Ann. Code Cts. & Jud. Proc. Article, Section 10-402 makes it lawful for a law enforcement officer, in the course of the officer’s regular duty, to intercept an oral communication with a Body Worn Digital Recording Device capable of recording video and oral communication if:

- the law enforcement officer is in uniform or displaying the officer’s badge or other insignia
- the law enforcement officer is party to the oral communication;
- the law enforcement officer notifies the individual, as soon as practical, that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so, and;
- the oral interception is being made as part of a video tape or digital recording.

The State Wiretap Act also makes it lawful for a law enforcement officer in uniform, or prominently displaying the officer’s badge or other insignia, to intercept an oral communication where the officer is party to the communication and where all parties to the communication have given prior consent to the recording.

5. Procedures

A. Program Provisions

1. BWC data is subject to the rules of discovery.

2. Employees will utilize the BWC in accordance with the provisions of this policy.

3. BWC equipment and all data, images, video and metadata captured, recorded, or otherwise produced by the equipment is the property of the HCSO.
4. The personal use of any information recorded by body-worn cameras shall be pursuant to the prior written approval of the Sheriff.

5. Unauthorized use, duplication, editing, and / or distribution of BWC files are prohibited.

6. Employees will not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization from the Sheriff.

7. Employees will not remove, dismantle, or tamper with any hardware / software component or part of the BWC.

8. Employees are prohibited from wearing or using personally owned video recording devices in place of, or in conjunction with, their issued BWC.

9. Use of BWC for any purpose other than in accordance with this policy is prohibited.

10. Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing via memorandum form (SO-212) through the chain of command and approved by the Sheriff in accordance with state record retention laws. All requests and final decisions will be kept on file.

11. Employees will note in incident reports and related reports when recordings were made during the incident in question.

12. BWC recordings are not a replacement for written reports.

13. The activation procedures contained in this document apply only to employees equipped with a BWC and does not place additional requirements on the duties of non-equipped employees.

B. Issuance and Utilization

1. Employees assigned to units whose primary duties involve interactions with citizens and / or enforcement related activities (Patrol, CSU, Court Services, K9, etc.) will wear the BWC at all times pursuant to this policy.

2. An employee assigned to units whose primary duties are administrative or investigative are not required to wear the BWC during the normal course of his duties, unless the employee:
   a. anticipates participating in enforcement activity;
   b. is detailed to work a uniform assignment; however, employees issued a BWC are not required to wear the BWC when wearing the “Class A” uniform; or
   c. is directed to wear the BWC by a supervisor.

C. Equipment and Training

1. Prior to using a BWC, employees and supervisors will receive agency-approved training on proper operation and care and the agency’s policy with respect to the use of the BWC.
2. Additional training will be provided at periodic intervals to ensure the continued effective use of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policies or equipment.

3. BWC equipment is the responsibility of individual employees and will be used with reasonable care to ensure proper functioning.

4. Equipment malfunctions will be brought to the attention of the employee’s supervisor as soon as possible so that a replacement unit may be obtained.

5. Employees will inspect and test the BWC prior to each shift in order to verify proper functioning. Prior to the beginning of each shift, each employee shall perform a function test of their BWC in accordance with the manufacturer’s recommendations.

6. Supervisors trained in the use of the BWC will routinely review BWC equipped personnel system recordings to confirm that BWC use is in compliance with this policy.

D. Wearing the BWC

1. The BWC is designed to be worn on the employee’s outermost garment in the best position to maximize the BWC field of view and facilitate ease of operation based on the clothing / equipment worn by the employee.

2. If worn on a “Class B” uniform with a tie, the BWC will be mounted in such a way that the tie will not obstruct the BWC’s field of view.

3. The BWC is not to be used as an off-body surveillance tool.

E. Activation

This policy is not intended to describe every possible circumstance wherein a BWC is, or can be, activated. It is understood that not all situations will clearly start out as necessitating documentation by the BWC nor will all recorded events have a clear ending time for when the BWC is no longer required. Employees may deactivate a BWC in certain situations. In the event that an employee disables the recording function of the BWC, the employee will state orally into the BWC, the reason for disabling the device. When in doubt, record the interaction.

1. Employees will turn on their BWC at the start of their tour of duty and will keep it in PEBM until activation is required.

2. Except as otherwise exempted by law, employees will inform individuals, as soon as practical, that they are being recorded. In locations where individuals have a reasonable expectation of privacy, such as a private residence, the citizen may decline to be recorded.

   a. if a citizen declines to be recorded, the employee will note on the recording the citizen has declined prior to returning the BWC to PEBM.

   b. a citizen cannot decline to be recorded if the recording is being made pursuant to an arrest or search of a residence or individuals therein.

3. Agency employees will activate their BWC under the following circumstances:
a. all citizen contacts during calls for service;

b. consensual encounters to confirm or dispel a suspicion that the citizen may be involved in criminal activity as a suspect, victim, or witness;

c. advising a citizen of his Miranda rights (not applicable if interaction occurs in an interview room where a recording device has already been activated);

d. impaired driving offenses (DUI / DWI) including field sobriety tests;

e. detentions and arrests;

f. assessment or evaluation for a psychiatric emergency petition;

g. serving a search or arrest warrant;

h. conducting searches on one’s person and / or property;

i. foot pursuits;

j. inventorying of seized controlled dangerous substances (CDS), money, or any high value property;

k. traffic stops;

l. upon the order of a supervisor; and

m. any other time an employee believes the activation is warranted.

4. Activation is not required for Agency employees in the following circumstances:

   a. taking a report or conducting a preliminary investigation with a victim of a sexual assault or when meeting with any Confidential Informant (CI);

   b. while performing administrative functions such as report writing after the citizen contact has ended;

   c. during a lull in enforcement activities such as directing traffic or when assigned to a static post where there is no contact with citizens;

   d. during extended calls for service that require no citizen interactions such as long-term death investigations, crime scene management, etc.; or

   e. during court proceedings.

5. If an employee fails to activate the BWC, fails to record the entire contact, or interrupts the recording, he will document audibly via the BWC why a recording was not made, was interrupted, or was terminated.

F. Deactivation Protocol

1. Employees may deactivate the BWC and return to PEBM when:
a. the event has concluded;

b. the victim and/or witness contact has concluded;

c. all stopped persons have been released;

d. an arrestee has been transferred into the custody of a detention facility;

e. engaged in personal activities;

f. on a call for service while exploring investigative strategies or discussing options for the handling of the call with other employees;

g. citizens wish to provide information relative to a case but refuse to do so while being recorded; or

h. the employee or a supervisor deem the need to cease recording supersedes the need to gather further DME.

G. Restrictions on BWC Use

1. BWCs will be used only in conjunction with official law enforcement duties. The BWC will not generally be used to record:

a. communications with other Agency personnel without the permission of the Sheriff;

b. encounters with undercover employees or confidential informants; or

c. in any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room, unless such places are part of an official investigation and meet the guidelines of activation; and

d. when engaged in communications regarding personal business.

2. Citizens will not be allowed to view recordings unless a supervisor deems the recording can aid in the identification of a suspect, or that the video footage can alleviate or prevent a complaint.

3. Each BWC is configured for single use, therefore, no employee will use a BWC not assigned to him.

H. Health Care Facilities: Patient Privacy

1. Inside a medical facility, employees will be aware of patients’ rights to privacy.

2. Employees will not record patients during medical or psychological evaluations or treatment.

3. When recording in hospitals and other medical facilities, employees will attempt to avoid recording persons other than the person of interest or medical documents.

4. These prohibitions do not apply when an employee is confronting a violent or assaultive subject or in an anticipated use of force incident.
I. Supervisory Responsibilities

1. Supervisory personnel are responsible for monitoring that employees equipped with BWC devices are utilizing them in accordance with policy and procedures defined herein.

2. Supervisory personnel are responsible for monitoring that employees equipped with BWC devices are following all uploading requirements for BWC footage.

J. Storage

1. Employees will download all files from body-worn cameras at least once each daily tour of duty.

2. All access to BWC files must be specifically authorized by the Sheriff or his designee, and all access is to be audited so that only authorized users are accessing the data for legitimate and authorized purposes.

3. Files will be securely stored in accordance with records retention laws and no longer than useful for purposes of training or for use in an investigation or prosecution.

K. Reviewing, Recording, Redaction, and Reproduction

1. BWC recording requests will be responded to in accordance with applicable laws.

2. Employees may review a recording in which they were the recorder by logging into the Evidence.com account using their assigned ID and password.

3. Requests by Agency employees to review a recording, other than one they recorded, and other than for court purposes, must be requested via SO-212 through the chain of command to the Division Commander.
   a. if approved, the requested video will be located by the Forensic Video Analyst (FVA) on Evidence.com.
   b. the requesting Agency employee will be allowed to view the video with a supervisor after having been provided a link to Evidence.com by the FVA for that specific video.
   c. employees and supervisors will not copy any recording in any way, nor will they remove a copy from the Harford County Sheriff’s Office, other than for official business.

4. All intra-agency requests for copies of recordings for court purposes will be made at least 14 days in advance of the anticipated need and submitted via the Mobile Video System Request form (SO-111) through the chain of command.
   a. in exceptional cases, the 14-day advanced notice rule may be waived in the form of an email addressed to the requesting employee’s division commander.
   b. the email will explain the need and reason for the waiver request.
   c. if approved, the division commander will forward the request and a SO-111 to the FVA requesting that the 14-day period be waived.
5. All requests for copies of BWC system recordings by media, citizens, or outside agencies under the Maryland Public Information Act, must be submitted in writing to the Custodian of Records utilizing the Request for Public Information form (SO-071).
   
   a. if the request is approved by the Custodian of Records, a SO-111 will be completed and forwarded to the FVA authorizing a copy of the file to be produced.
   
   b. the copy of the recording will be produced by the FVA and then forwarded to the Custodian of Records.
   
   c. the Custodian of Records will have the copied system recording reviewed by the Administrative Services Division Commanded prior to distribution to the requestor, pursuant to policy.
   
   d. In order to allow sufficient time to review, process and copy the system recording, the request should be made at least 30 days in advance of the need for the system recording; however, the Custodian of Records will provide such information as soon as it is available for release.
   
   e. all approved requests will be copied only after the $75.00 duplication fee is received.

6. Requests made by the Harford County State’s Attorney’s Office, the Harford County Law Department, or the Maryland Attorney General’s (AG) Office for the viewing or copying of BWC files will be accommodated to assist with preparation and prosecution of cases.
   
   a. State’s Attorney and Law Department / AG Personnel will be required to submit a completed SO-111 to the Central Records Section.
   
   b. The completed SO-111 will be forwarded to the FVA.
   
   c. The FVA will have the copied system recording reviewed by the Administrative Services Division Commanded prior to distribution to the requestor, pursuant to policy.

7. System recordings of the following nature will be automatically categorized as non-releasable:
   
   a. suspected neglect, abuse, and / or exploitation of a vulnerable adult or child;
   
   b. covert personnel and / or activities;
   
   c. an ongoing investigation; and
   
   d. intelligence information or security procedures.

8. Only the FVA will be authorized to copy any system recordings.
   
   a. once a SO-111 is completed and submitted, the FVA will be responsible for having the video file copied in a timely manner.
   
   b. other than for those files sent to the Custodian of Records for public release, a copy produced by the FVA will be immediately submitted to the Property Management Unit (PMU) via a Property / Evidence Record form (SO-258) under the original complaint number.
c. all copied recordings will be picked up in person from the PMU and will be signed for by the person having authority to have the copy made.

d. upon the completion of the court case or other legal proceeding for which the recording was needed, the person having the copy made will return the copy to the PMU.

e. The FVA will keep a log of the copies made of the BWC system recordings to include:
   i. the person / entity making the request;
   ii. the date the copy was made; and
   iii. the date the copy was returned, if applicable.

9. Handling of copies of the recordings will be consistent with the practice of handling other items of evidence with respect to the chain of custody requirements.

10. Exceptions to release and redaction standards may only be authorized by the Sheriff, on a case by case basis.

L. Classification and Retention

1. All tagged footage will, at a minimum, identify the employee by ID # and will have the date and time listed on all system recordings.

   a. Recordings containing material of essential or evidentiary value, such as arrests, physical or verbal encounters which may result in a citizen’s complaint, or other incidents deemed a special circumstance, or applicable for training purposes will be classified using the following respective classification tags:

      i. arrest
      
      ii. complaint
      
      iii. special circumstance – event type (e.g. suspect interview, suspicious condition, police involved shooting, etc.)
      
      iv. training
      
      v. test

2. All system recordings classified as anything other than a test video will be retained in the system for five hundred and forty-five (545) days.

3. System recordings classified as test videos will only be retained for 3 days.

M. Supplemental Law Enforcement Services

1. Employees issued a BWC will adhere to all aforementioned guidelines and procedures regarding BWC use while performing supplemental law enforcement services.
2. Any video captured must be downloaded when the employee returns to their regular assignment for the next tour of duty.

3. Any critical incident captured while performing supplemental law enforcement services must be uploaded in the same manner as if the video had been collected while the employee was on-duty for his traditional assignment.

N. Patrol Saturation Program (PSP)

1. It is recommended, but it is not required, to have the BMC, when operating an Agency vehicle on the PSP.

2. If an employee engages in law enforcement action while operating in PSP, and has the BWC, he will adhere to all guidelines and procedures contained in this policy.

O. Investigation of an Employee

1. When video footage exists pursuant to an investigation of an Agency employee, the Office of Professional Standards (OPS) will request that the FVA or a system administrator restricts access to the system recordings to include:
   a. release to the public
   b. access to individuals not engaged in the investigation

2. An employee of OPS will review the BWC system recordings to determine whether it is of evidentiary value to the investigation.