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|  | FREDERICK COUNTY SHERIFF'S OFFICE GENERAL ORDER |                         |                                       |              |
|   | <b>1.6 BODY-WORN CAMERAS</b>                    |                         |                                       |              |
|   | Initial Date: 01/14/2022                        | Last Review: 06/13/2023 | Effective Date: 06/16/2023            | Page 1 of 36 |
| CALEA Standards: 34.1   |   |                         | Issued by Chief Deputy David Benjamin |              |

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**1.6.1 Purpose**

The purpose of this policy is to provide personnel with guidelines for the use, management, storage, and retrieval of audio-visual media recorded by the body-worn camera (BWC).

The BWC is a point-of-view type of system designed to approximate the vantage point of the recording personnel. BWC footage should not be viewed as the only measure of truth because the video may show more or less of what the personnel hears or observes. The BWC records video and audio of interactions between agency personnel and the public. It is important to remember that the recording is simply a recording and does not capture everything that is occurring during an incident. BWC recordings lack the personnel's perception, interpretation, training, knowledge, and experience, in addition to what is taking place in that particular moment. The BWC system has an important, but limited use as one of many policing tools.



### 1.6.2 Background

- A. The BWC has proven to reduce violent confrontations and corroborate facts to uphold the integrity of the agency with the public. BWCs provide an additional means of capturing evidence and documenting police/public encounters. Personnel are reminded that the video recording does not reduce their requirement to complete a detailed incident report. It is important to remember that the recording is only one part of the overall incident and does not represent in whole the perspective of the personnel or witnesses.
- B. The BWC program is instituted for designated personnel who *regularly interact* with members of the public as part of the law enforcement officer's official duties (MD SB71). The BWC will record video and audio of events and statements made during law enforcement-related encounters and activities as authorized under this program. The BWC program will conform to standards in accordance with Maryland Public Safety Article 3-511.
- C. The BWC program will assist in:
1. capturing crimes in progress, whether perpetrated against the personnel or the community
  2. maintaining evidence for court presentation
  3. enhancing officer safety during citizen contacts
  4. mitigating potentially confrontational interactions with members of the public through the presence of the camera
  5. documenting the initial personnel's response, the discovery of evidentiary items, and the actions of the personnel pursuant to an investigation, including calls for service or self-initiated contacts
  6. preventing and resolving complaints made against personnel during the course of their duties
  7. providing supplement to the personal testimony of personnel in court
  8. enabling FCSO to review the performance of its officers during investigations such as:
    - a. legal basis used to conduct a stop if captured on video;
    - b. personnel/citizen/violator interaction;
    - c. arrest procedures; and
    - d. to serve in training and performance feedback, ensuring the professionalism of FCSO.

### 1.6.3 Policy (CALEA 41.3.8a)

- A. It is the policy of FCSO to utilize a BWC system for the purpose of recording video and audio interactions that occur between personnel and members of the public to document the encounter, to document evidence, to utilize at any other incident which occurs in a public place that would be beneficial to the public interest, or for any other lawful police purpose. All BWC equipment and recordings are the property of FCSO.



- B. Personnel should follow existing officer safety policies and practices when interacting with the public and utilizing a BWC. The safety of personnel shall be the primary consideration when contacting citizens or conducting stops, not the mere ability to record an event.
  
- C. Policy Review
  - 1. Because BWC technology is relatively new and evolving, FCSO may find it necessary to revise its existing BWC policy and procedures due to changes in statutes, technology, operation, administrative needs, relevant court decisions, or CALEA standards. FCSO will revise its BWC policy and procedures, consistent with applicable laws as deemed necessary.
  
  - 2. In addition to as needed changes, the BWC Coordinator shall review the existing policy annually to ensure that the BWC policy is current.
  
- D. Violations of this policy are subject to disciplinary actions.

#### 1.6.4 Definitions

- A. **Activation** – recording of both audio and video by switching the device from Pre-Event Buffering Mode to Event Mode.
  
- B. **Body-Worn Camera (BWC)** – a camera system worn on the person of uniformed personnel, or personnel prominently displaying a badge or other insignia, that is capable of recording video and intercepting oral communications.
  
- C. **Deactivation** – to stop actively recording the event and return the device to Pre-Event Buffering mode.
  
- D. **Deputy** – All sworn law enforcement members of FCSO (excluding SPOs)
  
- E. **Employee** – All employees of the FCSO holding a non-sworn status.



- F. **Digital Evidence** – BWC files, including photographs, audio recordings, and video footage, captured by a BWC and stored digitally.
- G. **Metadata** –any digital identifiers that are captured as part of the actual recording, such as date/time, Global Positioning System (GPS) coordinates, labeling, etc.
- H. **Personnel** – all sworn members of FCSO to include deputies, supervisors, and Special Police Officers (SPOs).
- I. **Powered On** – turning the BWC on. The BWC will operate in Pre-Event Buffering Mode until Activation or Powered Off.
- J. **Powered Off** – turning the BWC off. When powered off, the BWC cannot record audio or video, and the BWC is not in Pre-Event Buffering Mode.
- K. **Pre-Event Buffering** – the BWC continually recording video, but not committing it to memory (this means is it not recording audio). Once the BWC record on/off button is activated, the previous 60 seconds of video is then committed to memory on the system.
- L. **Private Conversation** – a conversation in which at least one of the parties to the conversation has a reasonable expectation of privacy.
- M. **Regularly Interacts** – *sworn personnel that hold the official duties of conducting law enforcement action with members of the public on a regular basis in the capacity of enforcing laws, answering calls for service or investigating criminal activity.*



### 1.6.5 Legal Considerations

- A. Pursuant to the State Wiretap Act under sections 10-401, et seq. of the Courts and Judicial Proceedings (CJP) Article of the Maryland Annotated Code, it is unlawful for any person to willfully intercept, endeavor to intercept, disclose, endeavor to disclose, use, or endeavor to use any oral communications. "Oral communication" is defined as any conversation or words spoken to or by any person in a private conversation.
- B. The State Wiretap Act under CJP section 10-402(c)(11) 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:
1. The law enforcement officer is in uniform or prominently displaying the officer's badge or other insignia;
  2. The law enforcement officer is making reasonable efforts to conform to standards in accordance with §3-511 of the Public Safety Article for the use of body-worn digital recording devices;
  3. The law enforcement officer is a party to the oral communication;
  4. Law enforcement notifies, as soon as is practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so; and
  5. The oral interception is being made as part of a videotape or digital recording.
- C. The State Wiretap Act also makes it lawful for a law enforcement officer 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.
- D. CJP Section 10-402(c)(2) outlines the exceptions to the interception of oral communications outside the scope of a vehicle stop.
- E. Pursuant to CJP Section 10-402(c)(5) a law enforcement officer may intercept "a conversation concerning an emergency."
- F. The interception of the conversation is authorized in all cases with the consent of the individual as outlined in CJP Section 10-402(c)(3).



### 1.6.6 General Operating Procedures

#### A. Official Use

1. Only personnel trained in the proper use of the BWC will use the device and the evidence management system.
2. Personnel will take care of the BWC and associated equipment in accordance with agency policy and manufacture specifications.
3. The BWC will be thoroughly inspected monthly by a supervisor and noted on the monthly inspection form. Damage or theft of the BWC will be documented per established agency policy.

#### B. Wearing the BWC

##### 1. General

- a. The BWC will be worn in a manner consistent with agency and manufacturer training. Personnel will only utilize an agency issued BWC.
- b. Personnel **who regularly interact with members of the public as part of their official law enforcement duties** in uniform or prominently displaying their badge or other insignia will wear and use the BWC when:
  - (1) working an on-duty or extra-duty **assignment**,
  - (2) when wearing tactical vests for plainclothes operations. Personnel should have their BWC with them in the event they need to put the vest on.
  - (3) Personnel operating their assigned agency vehicle in an off-duty capacity should have their BWC in a state of operational readiness and be able to attach the BWC to their person in the event they engage in law enforcement activity **when feasible**.
  - (4) Personnel may wear but will not be required to use the BWC while off-duty. Personnel who use the BWC off-duty shall only use the BWC for law enforcement related encounters or activities.
- c. The BWC will be positioned and adjusted to record all events that occur in the deputy's vision area.



2. Patrol Operations Section

- a. Deputies, corporals, and sergeants assigned to Patrol Operations shall
  - (1) wear and operate a BWC when working on duty or an extra-duty assignment for the entire shift, and keep it in a state of operational readiness at all times
  - (2) when wearing tactical vests for plainclothes operations.
- b. The BWC will be affixed in an approved location:
  - (1) For uniform personnel the approved location is the center of the body just below the shirt placket (lower button).
  - (2) For plainclothes personnel the approved location is the center of their body attached to their tactical vest

2. SWAT Operations

- a. Personnel assigned to the SWAT Team during a SWAT Operation will have their BWC affixed in a location on the tactical vest which captures the best perspective view of SWAT personnel during the operation.
- b. When SWAT personnel conduct a SWAT Operation wearing the class B uniform, the BWC will be affixed in accordance with policy.
- c. SWAT Team members will activate their BWC upon deployment at the incident scene.
- d. The BWC will remain activated while SWAT Team members are deployed at the incident scene.
- e. The BWC will be deactivated when a SWAT Team member leaves the incident scene.

4. Special Police Officers



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- a. SPOs assigned to the Frederick County Court complex shall only wear and operate a BWC when working on duty, in uniform while inside the courthouse. SPOs will only activate the BWC in accordance with the restrictions defined under "Courthouse" of this policy.
  
- b. The BWC will be affixed on the uniform shirt in the center of the body just below the shirt placket (lower button).
  
- c. The BWC will be positioned and adjusted to record all events that occur in the SPO's vision area.
  
- d. The BWC will be worn for the entire shift and will always remain in a state of operational readiness during the on-duty shift.
  
- e. At the conclusion of the SPO's shift, they will dock the BWC in the docking station at the courthouse. SPO's are prohibited from leaving the court complex with the BWC.



5. Administrative/Investigative Sections
  - a. Sworn deputies assigned to sections whose primary duties are administrative or investigative are not required to wear a BWC during the normal course of their duties, unless:
    - (1) The deputy anticipates participating in enforcement activity (e.g., serving an arrest warrant, executing a search warrant, conducting traffic enforcement, etc.); or
    - (2) The deputy is detailed to work a uniformed assignment where citizen and or law-enforcement-related activity is occurring, or likely to occur; or
    - (3) *The deputy is working an extra-duty assignment; or***
    - (4) The deputy is directed to wear a BWC by a ranking supervisor.
  - b. The BWC will be affixed in an approved location:
    - (1) For uniform personnel wearing concealed body armor, the approved location for a BWC is center of the body just below the shirt placket (lower button).
    - (2) For uniform personnel not wearing concealed body armor, the approved location for a BWC is the center of their body attached to their tactical vest.
    - (3) The BWC will be positioned and adjusted to record all events that occur in the deputy's vision area.
  - c. Detectives will utilize their BWC during the execution of all search and seizure warrants. Once entry has been made and the location is secured with all occupants in custody, detectives may deactivate their BWC if necessary to protect the identity of any undercover officers, confidential informants, sources of information, or if it has been determined that the BWC will compromise investigative techniques.
  - d. Detectives will utilize their BWC during any operational phase of a pre-planned event, such as a controlled operation where an arrest is to be made, execution of an arrest warrant, or arrest of a suspect. Once the suspect is safely in custody, detectives may deactivate their BWC to protect the integrity of an ongoing investigation.
6. Federal Task Force Officers, Undercover Detectives



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- a. Personnel who have been deputized as Federal Task Force Officers (TFOs) shall abide by the sponsoring federal agency's policies and directives as it relates to BWCs.
  
- b. Personnel acting in an undercover role are exempt from wearing a BWC while operating in an undercover capacity. Arrest teams shall wear their BWC in accordance with policy using due regard and caution to not record members acting in an undercover capacity.



### C. Testing

3. Prior to going into service at the beginning of each shift, secondary employment, or specialized assignment, personnel will perform a function test of the BWC in accordance with their training and manufacturer's recommendations to ensure that the BWC is operating properly. (CALEA 41.3.8e)
4. The AXON Body 3 is tested by powering on the device and ensuring the LCD screen shows "READY" followed by two quick presses of the large center button. The large center button is then pressed and held for several seconds to stop the recording. Ensure that the sound and or vibration functions worked during the testing phase.
5. The AXON View XL application shall be utilized through the use of a smartphone to adjust the BWC's view perspective and for viewing the recording to ensure proper function.
6. Personnel discovering a BWC malfunction shall immediately report the malfunction to a supervisor.
7. The supervisor will attempt to correct the malfunction to place the BWC in service. If it cannot be corrected, remove the BWC from service, issue the personnel member another BWC, and notify the BWC Coordinator of the malfunctioning BWC.

### D. Activation

1. Personnel shall only activate the BWC for legitimate and lawful law enforcement purposes as outlined in this policy. (CALEA 41.3.8b)
  - a. The BWC must be activated during all law enforcement related encounters and activities such as, but not limited to:
    - (1) Upon arrival at the scene of a dispatched call, self-initiated incident, or other activity that is investigative or enforcement in nature for all units dispatched or responding.
    - (2) All enforcement and investigation related citizen contacts.



- (3) Documentation of evidence that can be used in the prosecution of criminal and traffic offenses.
  - (4) Arrests and transports.
  - (5) All stops (traffic, pedestrian, bicycle, etc.)
  - (6) Vehicle and foot pursuits
  - (7) All searches (person, vehicles, structures, effects), except strip and body cavity searches.
  - (8) Interviews and interrogations.
  - (9) Mental health interventions.
  - (10) Use of force incidents.
  - (11) During the initial inventory of seized money or any high value property.
  - (12) Any contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording.
- b. When not otherwise prohibited by law or agency policy, personnel may begin recording with their BWC in circumstances when they determine that doing so would be beneficial to the public interest.
  - c. In situations or circumstances when safety or practical factors prevent personnel from immediately activating their BWC, or immediate intervention/response is required by the BWC user prior to activation, personnel should activate their BWC as soon as practical and note, either on the recording or in an incident report, the reason for the delayed activation.
  - d. This policy is not intended to describe every possible circumstance in which the BWC is or can be activated. It is understood that not all situations will clearly begin as necessitating documentation by the BWC. When in doubt, record the interaction.
2. Procedure for activating the BWC:
- a. The Axon Body 3 is Activated by double-pressing the large event button on the camera. Once the BWC is Activated the camera will emit two (2) short tones (unless in STEALTH mode) and two (2) short vibrations. The camera display shows the recording icon and the operation LED blinks red. While recording, every two minutes the BWC emits two short tones and two short vibrations.



- b. Prior to using the radio or MDT to announce you are 10-23 (on-scene), calling out a traffic stop, or any other reason why you would exit your vehicle the BWC will be activated.
  - (1) example – activate BWC: “Unit # to Frederick I will be 10-23 or just prior to pressing the on-scene button on the MDT”
  - (2) example – activate BWC: “Unit # to Frederick copy traffic. Provide location, description, activate lights to conduct stop

E. Notification

1. Except as otherwise exempted by law, personnel will notify individuals that they are being recorded as soon as practicable; unless it is unsafe, impractical, or impossible to do so.
2. This notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.
3. Examples of potential notification language include:
  - a. “I’m deputy \_\_\_\_\_ of the Sheriff’s Office. For your safety as well as my own, this encounter is being video and audio recorded”; or
  - b. “You are being audibly and visually recorded”; or
  - c. “Our interaction is being recorded by my body camera.”



#### F. Stopping a recording

1. Once the BWC has been activated, personnel will continue to record until (CALEA 41.3.8b):
  - a. The personnel have left the scene and anticipates no further involvement in the event;
  - b. A supervisor has authorized that a recording may cease. The personnel will document the name of the supervisor on the recording before it is stopped and in their incident report.
  - c. The personnel are no longer engaged in a related investigative or enforcement activity; or
  - d. The event has concluded. An event will be deemed "concluded" when:
    - (1) All arrests have been made and arrestees have been transported or released from custody;
    - (2) All witnesses and victims have been interviewed;
    - (3) The continued recording will not serve to obtain additional evidence;
    - (4) No further law enforcement action is likely to occur.
2. Personnel may stop a recording to have a conversation with assisting personnel or supervisors to discuss tactics and situational matters. If the recording is stopped for a tactical conversation, the personnel shall make a brief verbal explanation of the reason on the recording. The recording shall be resumed once the tactical conversation has concluded.
3. Whenever the BWC recording is stopped, the personnel must record a brief verbal explanation for the stoppage prior to stopping the recording.

#### G. Deactivation

The Axon Body 3 is deactivated by pressing and holding the large event button for three (3) seconds. The BWC will emit one (1) long tone and vibrate once. The display will show saving and then READY. The LED light then blinks green.

#### H. Refusal to be Recorded



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1. When community members, witnesses, crime victims, or other parties wish to share information related to criminal activity but refuse to do so while being recorded, personnel will have the discretion to turn off the BWC during the interview.
2. In situations where personnel decide that obtaining the information is more important than recording the conversation, personnel must record a brief verbal explanation/reasons for the stoppage prior to stopping the recording.

**I. Uploading**

1. All BWC recordings must be uploaded by personnel by the end of their assigned shift unless an exception is authorized by a supervisor. Personnel will be responsible for properly categorizing and tagging the recording at the time of the upload and tagging.
2. Personnel will only utilize the multi-bay docking stations, single dock, USB connection cable, or pre-configured secure Wi-Fi (if available) to upload the BWC recordings to Evidence.com.
3. In a critical incident (such as an officer-involved shooting, in-custody death, or other officer-involved incidents that result in serious injury or death), a supervisor may immediately take custody of the BWC and, in such case, will be responsible for the upload. The personnel will be issued a replacement BWC in coordination with the BWC Coordinator, or their assigned device will be returned once the recording is uploaded and secured in the evidence storage system.

**J. Failure to Record**

1. Whenever personnel equipped with a BWC fails to record an event, incident, or encounter as required by policy, they shall document in an Incident Report a detailed explanation of why the BWC recording was not made, such as:
  - a. Equipment malfunction;
  - b. Unsafe, impractical, or impossible circumstances;
  - c. At the request of a victim, witness, or individual sharing information with personnel; or
  - d. Any other unforeseen reason.
2. In the event that a recording is not made as required per policy, the personnel will also notify their supervisor as soon as practicable.

**K. Accidental or Unintended Recordings**

1. In the event of an accidental activation of their BWC where the resulting recording has no investigative or evidentiary value, personnel may submit a deletion request FCSO Form 1-C to their supervisor.



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- a. The supervisor will either approve or deny the deletion request based on the information provided by the personnel.
  
- b. An approved request will be forwarded to the BWC Coordinator for appropriate action.



2. If personnel activate a BWC generating a recording of a prohibited use or that is not a law enforcement related encounter or activity, the personnel shall notify his or her supervisor promptly.
  - a. The supervisor will then submit a request for deletion form (Form 1-C) to the BWC coordinator documenting the justification for deletion.
  - b. Recordings deemed by the Office to be recorded inadvertently and which are of no legitimate purpose to the department, shall be destroyed expeditiously.
3. The BWC Coordinator will maintain a copy of all deletion requests and results.

L. Axon-Enhanced BWC Features

1. The AXON Body 3 camera comes equipped with enhanced features including live streaming, location services, gunshot detection, and AXON Signal.
2. The use of location services is intended for officer safety purposes in the event FCSO loses contact with personnel when they are away from their vehicle or other AVL services are lost.
3. Location services of the BWC are only active when the camera is activated in recording mode. Once a user stops recording, location services are no longer active. The last known location will be visible on the RESPOND mobile application or the Evidence.com RESPOND page.
4. Supervisors will be trained in the use of location services and have the ability to use the RESPOND mobile application for officer safety concerns.
5. The BWC Coordinator has the ability to activate enhanced features, such as live streaming at the approval of the Sheriff in situations where they *may* be beneficial to incident operational conditions. All BWC users will be notified prior to any changes made to the features available.
6. When the BWC is otherwise required to be powered on in pre-event buffering mode, personnel may put their BWC into Sleep Mode in situations where personal privacy (i.e. using the restroom or changing clothing); or if unintentional SIGNAL activation is a concern such as times during



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equipment inspections or device testing is occurring. Personnel are responsible for ensuring their BWC returns to pre-event buffer mode or event mode as required per policy.



## 7. AXON SIGNAL Activation

### a. Signal Sidearm

- (1) The Axon Signal Sidearm will send an electronic signal to activate the BWC to recording mode when the handgun is drawn from the holster.
- (2) The Axon Signal sidearm will activate the BWC in range of the signal **that the device is assigned to**.
- (3) The Axon Signal Sidearm mute mode may be utilized when the firearm is removed from the holster for inspection purposes or when being temporarily removed for secure storage. Signal mute mode does not prevent the BWC from being manually activated should the need arise.

### b. Conducted Electronic Weapon (CEW) Signal

- (1) The Axon Taser 7 will send a signal to activate the BWC to recording mode when the CEW is armed; when an arc is initiated; and when the trigger is pulled.
- (2) The CEW signal will activate the BWC in range of the signal **that the device is assigned to**.
- (3) The CEW signal is disabled when the CEW is in the function test mode.

### c. Signal Vehicle

- (1) The Axon Vehicle Signal device is installed in most Maryland State Police (MSP) vehicles with in-camera cameras along with several other jurisdictions surrounding Frederick County which utilize Axon equipment.
- (2) The Axon Vehicle Signal will activate BWC in range of the signal when the front and rear facing emergency lights of the vehicle are turned on.

- d. Axon "SIGNAL" accessories are intended to supplement and assist to maintain compliance with BWC activation during high stress situations. Personnel may use the "sleep mode" of the BWC to avoid unnecessary and accidental activations from Axon SIGNAL devices in circumstances as described in 1.6.6.L.6

## 1.6.7 Restrictions on Use of BWC

### A. Medical Facilities, Ambulances, and Patient Privacy

1. Personnel shall record ambulance transports when they are present for law enforcement purposes provided it does not interfere with ongoing medical treatment of the individual.



2. Personnel are reminded that they shall only activate their BWC in hospitals and other medical facilities for the events required by policy.
3. Personnel shall not record in the common areas of medical facilities except when recording is required per policy.
4. When recording in hospitals or other medical or psychiatric facilities, personnel shall be careful to avoid, when possible, recording persons other than the suspect, complainant, or witnesses.
5. When personnel are in a hospital or medical facility pursuant to a legitimate purpose they shall continue to record and make every effort to provide patients with privacy such as they do not record patients during medical or psychological treatment or evaluations by a clinician or similar medical professional. Personnel must be cognizant of the Health Insurance Portability and Accountability Act (HIPAA) Personnel shall position themselves in such a way as to afford the patients as much privacy as possible.

#### B. Courthouse

1. BWCs are not be used inside the Courthouse or any courtrooms for the sole purpose of recording any court proceedings unless the recording is pursuant to an event required by policy.
2. ***Personnel may only activate BWCs in court facilities and courtrooms when taking enforcement or investigative action, or during any confrontation encounter between personnel and members of the public.***

#### C. Schools

1. BWCs are not to be used inside of a school (public, private, charter, etc.) or at a school-related event unless the recording is pursuant to an event required by policy.



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2. BWCs will not be used to record student private information or to record private meetings with school staff.
  
3. BWCs will not be used to record administrative student discipline issues handled by school staff members except while investigating a criminal offense that may have transpired as a result of the administrative infraction. i.e. the staff member is assaulted.
  
4. In the event that any student information is captured accidentally during the course of an investigation and deemed not to be evidentiary, part of an arrest or intention to place charges, use of force, injury to personnel, staff injury, or other situation not identified; the personnel will notify their supervisor immediately who will contact the BWC Coordinator to have the footage purged from the system.
  
5. BWC video involving a student will only be released in accordance with agency policy and at the discretion of the Sheriff.

**D. Sex Offense Related Incidents**

Personnel are required to obtain consent prior to recording an interview with a victim of a sex offense. Consent in these cases must be documented/recorded on the recording and in the incident report.

**1.6.8 Prohibited Use (CALEA 41.3.8b)**

- A. A BWC will not be used to create recordings in locker rooms, dressing rooms, and restrooms, unless part of a criminal investigation.
- B. Personnel will not surreptitiously or openly record private conversations or conversations that are not part of official business.
- C. A BWC will not be used to create recordings of strip searches. The BWC will be Powered Off prior to the beginning of a strip search. At the conclusion of the strip search and once the subject is fully clothed, the BWC will be Powered On. This will be documented in the incident report.
- D. A BWC shall not be used to record employees during routine administrative activities.
- E. Personnel will not intentionally record undercover officers or confidential informants without their consent.
- F. Personnel shall not record non-work-related personal activity.
- G. Personnel will not intentionally record NCIC, CJIS, or other criminal justice-related database information.
- H. Personnel will not use a BWC issued to another personnel member.
- I. If personnel activate a BWC generating a recording of a prohibited use or that is not a law enforcement related encounter or activity, the personnel shall notify his or her supervisor



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promptly. The supervisor will then submit a request for deletion form (Form 1-C) to the BWC coordinator documenting the justification for deletion. Recordings deemed by the Office to be recorded inadvertently and which are of no legitimate purpose to the department, shall be destroyed expeditiously.



### 1.6.9 Documentation

- A. Whenever a BWC recording is made of an event that results in an incident report, the reporting personnel must note in the report that the recording exists, if known.
1. Personnel who are not the primary reporting member on the scene of an incident shall inform the reporting personnel of their recording(s) so that the primary personnel may note this information in their report.
  2. The notation "BWC Activated" shall be placed at the beginning of the reporting personnel's narrative. The personnel should also list the names of all personnel on scene with a BWC.
  3. BWC video shall not take the place of the personnel accurately documenting the incident and the facts surrounding what took place. Personnel will refrain from simply writing "refer to BWC footage" in their narrative instead of documenting the incident.
  4. Any BWC footage to be attached to a LEFTA report will be done so by the initial supervisor reviewing the report.
- B. Video Tagging
1. FCSO has enabled auto-tagging between CAD and Axon's Evidence.com. The purpose of auto-tagging is to help identify videos by case number in the situation that they were not previously tagged by personnel. Auto-tagging does not replace the need for personnel to follow steps 2-4 below.
  2. Personnel will tag, categorize, and title the recording by using the Axon View application on their smartphone or MDT prior to docking or connecting the BWC for upload. The tagging will include the case number, type of incident, evidentiary or not, and any notes/concerns regarding the incident. Tagging should be done on a continual basis.
    - a. The video ID will be changed to the incident case number in this format: complete year and 6-digit number (YYYY-000000).



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- b. Personnel will choose a category that indicates the closest determination of the event. This saves the video in accordance with the established retention schedule.
  
- c. Rename the title to the incident classification and note if it is an arrest.



C. Evidence.com Use and Access

- a. Evidence.com can only be accessed by personnel and other essential employees who have been authorized by and been issued login credentials by the BWC Coordinator.
- b. Personnel will have access to all unrestricted and non-confidential recordings in the Axon system. Personnel will only access recordings that are pertinent to an investigation they are conducting. (1.6.10A.4).
- c. Investigative group (CIS, NIS) members will have access to all non-restricted videos.
- d. Commanders and supervisors will have permission to view all recordings.
- e. Evidence.com maintains an audit trail of access, sharing and editing of video, and also maintains an unedited version of the original video.

**1.6.10 Internal Access, Review, and Use of Recordings (CALEA 41.3.8c)**

A. Personnel

1. A BWC recording may be reviewed by the recording personnel (not on the scene of the incident) for any work-related reason, including but not limited to:
  - a. To ensure the BWC system is working properly.
  - b. To assist with the writing of a report or other official document.
  - c. To review/critique his or her own performance.
  - d. To review/prepare for court.
  - e. To respond to a civil suit, criminal investigation (if the personnel is the subject of the investigation), citizen complaint, or administrative complaint. Personnel shall have the ability to review their BWC recording of the subject incident prior to making a statement.



2. In the event of an officer-involved shooting, known in-custody death, or serious use of force that results in a criminal investigation; personnel directly involved in the incident will not review the footage until making an initial statement. Criminal investigators will have the discretion to allow the involved personnel to view the footage with them while providing an initial recorded statement if it is deemed necessary or helpful to the investigation.
3. Upon request, legal counsel representing personnel will be afforded the opportunity to review the BWC footage in person in coordination with the BWC Unit Coordinator. No footage will be shared externally with counsel without the written approval of the Sheriff.
4. Personnel are not allowed to view another personnel's recording(s) except for a work-related reason that contains evidence pertinent to an investigation they are conducting. Personnel must document their reason within the notes section of the recording to provide justification for accessing the recording.
5. Personnel wishing to review BWC footage of an incident that is not directly related to their incident investigation must receive approval from their respective section commander. The approving commander's name and justification will be documented in the notes section of the recording.

**B. Supervisors and Command Staff**

1. Recordings may be reviewed by a supervisor or command staff for any legitimate matter, including, but not limited to:
  - a. Review evidence,
  - b. Participate in an official investigation such as a personnel complaint, administrative inquiry, or a criminal or civil investigation,
  - c. Assess training value,
  - d. Quality control
2. A supervisor must review the BWC recording of an incident when: (CALEA 41.3.8c)
  - a. Personnel is involved in a reportable use of force incident.
  - b. Personnel is injured during the performance of their duty.
  - c. Personnel is involved in an incident that results in a fatality including, but not limited to, in-custody deaths and crashes or vehicular pursuits resulting in a fatality.



- d. Any incident that the personnel has tagged as being a potential complaint.
3. Supervisors will be responsible for conducting monthly compliance reviews of recordings of personnel assigned under their command to ensure compliance with this policy. The review of recordings will be done at random through the use of the AXON Performance Application with a minimum of two video reviews per month for each personnel member. The purpose of the review is to ensure compliance with:
    - a. Activating and deactivating the BWC;
    - b. Giving the required notification of recording; and
    - c. Overall adherence to the BWC policy. (CALEA 41.3.8g)
- C. Documentation
- A log will be kept to record access to all recordings and personnel shall have timely and ongoing access to the log. The log will include the:
1. Name of the employee/personnel accessing the recording;
  2. Reason for access with reasonable clarity;
  3. Date recording was accessed;
  4. Length of time it was reviewed, and
  5. Any copying or editing.
- D. Each time that a video is accessed in Evidence.com by a supervisor, personnel, or other authorized agency members; the viewing party will note the reason in the notes section.



#### E. Internal Investigations

1. Personnel shall have access to their BWC recording that are directly related to any administrative investigation or civil suit where the personnel member is named as a defendant.
  
2. When a recorded incident or recording of an incident is used to question personnel during a formal internal investigation, access to their BWC recordings related to the incident shall be provided to the personnel member at least five working days in advance of questioning.

#### F. Prohibitions

1. A BWC recording of a constitutionally protected activity may not be used to identify persons present at the activity who are not suspected of being engaged in illegal activity or in need of assistance.
  
2. The stored video and audio data from a BWC recording may not:
  - a. Be used to create a database or pool of mugshots;
  
  - b. Be used as fillers in photo arrays; or
  
  - c. Be searched using facial or voice recognition software. This does not prohibit the use of recognition software to analyze the recording of a particular incident when a supervisor has reason to believe that a specific suspect or person in need of assistance may be a subject of a particular recording.
  
3. Employees shall not access, obtain, attempt to obtain, or copy/convert for their personal use any recording captured by a BWC. Employees shall not upload BWC recordings to public and/or social media websites.
  
4. Except as authorized by policy, employees shall not attempt to copy, delete, alter, release, reuse, modify or tamper with BWC recordings in any manner. Employees are prohibited from



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making a copy of a BWC audio/video recording by using another recording device, such as a cell phone.

**1.6.11 Retention of Data (CALEA 41.3.8d)**

- A. All original BWC recordings are the property of the FCSO and shall be securely stored and retained according to FCSO's retention schedule and consistent with state law and existing evidence protocols, unless a specific request is made to store them for a longer period of time by a person authorized by FCSO.
- B. BWC recordings are subject to all of the rules which govern the use and disposal of any departmental property. In addition, BWC recordings are official agency documentation and subject to the same restrictions placed on other official agency records/reports.
- C. BWC recordings that can be used in an investigation or capture's a confrontational encounter between personnel and a member of the public will be deemed "evidentiary" and categorized and tagged according to the type of incident. Recordings that do not contain evidence or capture routine, non-confrontational encounters will be deemed "non-evidentiary".
- D. BWC recordings will be retained for 90 days unless they are tagged and categorized for evidence or administrative retention for a longer period of time. Selection of the incorrect category may result in recordings being automatically deleted from the system while they are still needed for specific investigative or judicial purposes.
- E. The BWC Coordinator or their designee will be responsible for ensuring that any evidentiary cases nearing the expiration of their retention have been adjudicated through the court or are not otherwise needed to be preserved.
- F. FCSO's categories and retention periods are as specified in the below table:

| Retention Category               | Suggested Incidents  | Retention Period       |
|----------------------------------|--|------------------------|
| Miscellaneous and Non- Criminal  | Field interviews, non-criminal calls, and potential complaints | 24 months              |
| Routine Traffic                  | Non-jailable and non-arrestable traffic                        | 18 months              |
| Pending Review                   | Secondary Category for future review                           | Until manually deleted |
| Misdemeanors and Serious Traffic | All misdemeanor, jailable & arrestable traffic, and crashes.   | 5 years                |
| <b>Criminal Felony Arrest</b>    | All felonies not listed below                                  | 15 years               |



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|                               |  |                        |
|-------------------------------|--|------------------------|
| Felony Specified              | Homicides, rapes, and felony sex offenses                              | Until manually deleted |
| Administrative Investigations | Use of Force incidents, pursuits, and unusual occurrences.             | 7 years                |
| Training or Testing           | CEW Spark tests, authorized training, function tests                   | 90 days                |
| Uncategorized                 | Any incident not included in the above categories                      | 90 Days                |
| False SIGNAL Activation       | Accidental and dales SIGNAL activations                                | 3 days                 |
| <b><i>Non-evidentiary</i></b> | <b><i>Routine CFS, no potential to ne criminal at a later time</i></b> | <b><i>90 days</i></b>  |



### 1.6.12 Records Requests and Release of Recordings

- A. The public release of BWC recordings will be conducted in accordance with applicable public records laws and FCSO standard operating procedures.
- B. All Public Information Act (PIA) requests for BWC will come through the **Public Information Officer (PIO)** designee who will then notify the BWC Unit who will then take over and review the request. Payment must be made to the FCSO prior to any BWC being released. If any BWC is released, the BWC Unit will copy the **PIO** on the email or otherwise notify them the PIA was fulfilled.
- C. In the event that a traffic stop or other incident BWC recording is to be released to the public, the personnel involved in the incident will be notified by the BWC Coordinator or designee that the video is being released or viewed by the public (BWC digital recordings viewed in court or as part of a public hearing are excluded).
- D. FCSO may proactively release a BWC digital recording to the public when it is determined to be in the best interest of FCSO, the county, and the community. The Sheriff will have the final authorization for the release of any recording. Any decision to release the recording will be made after consulting with the Maryland Attorney General's Office (if applicable), the Frederick County State's Attorney's Office, and or the county attorney if deemed necessary. All personnel involved in the incident recording will be notified that the video is being released prior to the release.
- E. The BWC Coordinator, or their designee, shall be responsible for duplicating and distributing any copy of a BWC digital recording in accordance to agency policy regarding dissemination of records.
- F. All fees associated with the distribution of BWC recordings will be
  1. set forth by the Sheriff.
  2. remitted to the BWC Unit fiscal fund.

### 1.6.13 Training (CALEA 41.3.8f)

- A. FCSO shall ensure that all personnel issued a BWC are trained on agency policy and the operation of the BWC equipment prior to its use in the field.



- B. Training will include familiarization with the BWC program to include:
1. An overview of FCSO's BWC program including the benefits and limitations of BWC recordings;
  2. A review of FCSO's BWC policy and procedures;
  3. A demonstration of the operation of a BWC;
  4. A demonstration of the evidence storage software and its capabilities;
  5. Supervisors will receive training on the advanced capabilities of the evidence storage software and additional features; and
  6. An overview of recording categorizing and importance of evidence preservation.

#### **1.6.14 Body-Worn Camera Unit**

- A. The BWC Unit will oversee the implementation of the BWC program through training of personnel, issuance of BWCs and necessary equipment, policy development, record management, and coordination with the State's Attorney's Office.
- B. The BWC Coordinator will dictate the settings of each BWC, including recording format and pre-event buffering recording time. Under no circumstance shall the internal settings of the BWC be modified without authorization from the system administrator.
- C. When reviewing BWC video, the FCSO BWC Unit will use the Frederick County SAO BWC Marking and Description Guidelines for ERU Investigators as a guide.
- D. The BWC Unit shall be responsible for the accuracy and management of the storage of media deemed to be evidentiary in conjunction with FCSO policy for the storage of evidence and the applicable retention schedule as set forth.
- E. The BWC Coordinator will be responsible for the daily review of all videos categorized as Evidence. The BWC Coordinator will share these videos with the State's Attorney's Office through the creation of a case in Evidence.com.
- F. The BWC Coordinator will update the BWC user list and provide updates to the SAO any time changes are made.



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- G. The BWC Coordinator is exempt from the requirements set forth in this order for notating the reason for accessing a video in Evidence.com. This is due to the sheer amount of daily access by the BWC Coordinator. All actions made by the BWC Coordinator are tracked by the internal audit component of Evidence.com.