

**Tate County Sheriff's Office
Law Enforcement
Policies and Procedures**

Subject: Video Recorders – Body Worn	Policy Number: General Policy Directive
Issue Date: January 1, 2016	Revision Date:
Approval Authority: Sheriff Brad Lance	

POLICY:

The Tate County Sheriff's Office may employ wearable video recording equipment to enhance enforcement actions and memorialize events.

Use of a *Body Worn Video Recording (BWVR)* system provides a method to document activity through the audio and video recording of the involved officer and others as they are occurring. The primary purpose of a wearable BWVR system is for officer safety and to document statements and events during the course of a citizen contact. These recorders are intended to assist officers in the performance of their duties by providing an audio and/or video record of a contact.

DEFINITIONS:

- **1-Party Consent State** – As of 2011 other states, territories, and the District of Columbia) not listed below [see: *2-Party Consent State* definition below] require only one-party consent for a conversation to be recorded. If a caller in a 1-party state records a conversation with someone in a *2-party consent state* that caller is subject to the stricter of the laws and must have consent from all callers.¹ As laws are subject to change, periodically check your state and the other state's laws before committing to an investigative plan.
- **2-Party Consent State** - States and territories that require all parties to a conversation be advised that the conversation is being recorded. As of 2011, eleven states were 2-party states, i.e., eleven states currently require that all parties consent to the recording. These states are California, Connecticut, Florida, Illinois, Maryland, Massachusetts, Montana, Nevada, New Hampshire, Pennsylvania, and Washington.²

¹Cf. *Kearney v. Salomon Smith Barney Inc.*, 39 Cal. 4th 95 (2006).

²Michigan's eavesdropping statute seems to put it into the 2-party category, but the courts have ruled that in Michigan, a party may record their own conversation without the consent of any other parties but cannot grant that right to a third party. There are certain exceptions to these rules, so check these rules.

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- **Body Worn Video Recorder (BWVR)** - A video and audio camera worn on an employee's body in plain-view.
- **Covert** - When an electronic device is hidden from normal view or otherwise secreted away, and at least one of the individuals to be recorded has a *reasonable expectation of privacy*. Examples of covert recording devices are hidden body recorders or transmitters, miniature closed circuit television [CCTV], or parabolic microphones. For agency guidelines on covert surveillance, see our policy *Covert Electronic Recording*.
- **Interview** - For purposes of this policy, an interview is defined as questioning of a potential witnesses or victim that does not require a waiver of Miranda rights from the party questioned.
- **No or low expectation of privacy** - In some instances residents and officers have no or low expectation of privacy to include:
 - Officers recording telephone conversations where they are a party to the conversation;
 - Officers recording face-to-face conversations where they are a party to the conversation;
 - Recording information at a crime scene;
 - Monitoring and recording public hall ways, elevators, rooms [less restrooms], of a public building, including agency facilities;
 - Monitoring and recording sobriety tests;
 - Recording of voluntary statements made by victims, witnesses, or suspects; &
 - Recording routine traffic stops with portable or fixed recording equipment.
- **Overt surveillance** - Is the use of electronic or photographic equipment that is not hidden from general view, regardless of whether or not the suspect actually sees the monitoring device or knows of its' existence. Examples of overt surveillance devices include:
 - *CCTV mounted in hallways, parking lots, waiting rooms, etc.;*
 - *Officers carrying a tape recorder in their hand or placing it on a table;*
 - *CCTV equipment mounted in a patrol car, or*
 - *Use of handheld video camera.*

Practical Application & Use:

1. All stored video recordings are maintained in a secured data storage medium for a period of three years and then may be destroyed. Exceptions to this purge criteria

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- are recordings associated with civil or criminal cases that have yet to be adjudicated, and sustained internal affairs investigations. The purge of such data is performed only after written consent has been obtained from the Sheriff
2. No recording made involving an arrest can be erased by any involved officer. Erasure of data involving a felony or officer-involved use of force or deadly force encounter requires review and decision justification of the Chief Deputy, with the prior concurrence of the Sheriff.
 3. Officers use the BWVR system under circumstances such as:
 - a. During enforcement contacts, like traffic and Terry stops, issuing citations, and arrests.
 - b. When officers record non-enforcement contacts that become confrontational, assaultive, or enforcement orientated.
 - c. When conducting critical interviews or interrogations of witness and suspects in felony cases.
 - d. Recording audio and video to assist the officer later in writing reports.
 4. Officers do not use the BWVR system to:
 - a. Record incidents, discussions, or actions for personal use; or
 - b. Record friends, associates, or fellow officers for non-investigative purposes.
 5. It is recommended that contacts, interviews, and other events are recorded when it is anticipated they may have value as evidence, to limit liability, to resolve citizen complaints, or as a training aid.
 6. If a recording contains evidence, the data is downloaded in a timely manner by the reporting officer. Once downloaded to a secure server, the file is saved in accordance with the agency electronic data storage protocol and is placed in evidence.
 7. When BWVR recordings are made, the recording and the device serial number is entered into the associated report and onto evidence tags.
 8. Recordings may be viewed in any of the following situations:
 - a. As evidence in a criminal, civil, or internal affairs investigation.
 - b. By the officer viewing recordings from their assigned recorder.
 - c. By a supervisor reviewing general or specific incident performance issues.
 - d. For training purposes, with the involved officer's consent.
 9. Recordings are not displayed for purposes of harassment, ridicule, or embarrassment.
 10. Copies of stored BWVR data may be reproduced from the stored data system in support of criminal and internal investigations, court, training, or other purposes as approved by the Sheriff or designee.
 11. In the event of an accidental activation of the BWVR resulting in a recording with no investigative or evidentiary value, the officer may request that the BWVR electronic file be deleted by submitting a written request with sufficient explanation to the immediate supervisor.

Maintenance & Service:

Once issued to individual officers, each employee is responsible for the appropriate care and operation of the BWVR. The agency provides all maintenance, batteries, belt holders,

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and any other accessories necessary for the standard operation of the device. As part of this effort:

1. Broken or malfunctioning recorders and accessories are reported to the Chief Deputy as soon as practical.
2. For repairs, the reporting officer completes and submits a memorandum to the Chief Deputy detailing how the damage occurred and the maintenance issue.
3. The Chief Deputy provides a replacement device or accessory as soon as practical.

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