

<b>WESTMORELAND COUNTY SHERIFF'S OFFICE GENERAL ORDERS</b>	
<b>SUBJECT: BODY WORN CAMERAS</b>	<b>NUMBER: 04-24</b>
<b>ORIGINAL EFFECTIVE DATE: 12-08-15</b>	<b>REVIEW: 04-1-2016</b>
<b>AMENDS/SUPERSEDES: 12-08-15</b>	<p style="text-align: center;"><b>APPROVED:</b> </p> <hr/> <p style="text-align: center;"><b>C.O. Balderson, Sheriff</b></p>

**NOTE:** This general order is for internal use only, and does not enlarge a deputy's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Sheriff's Office, and then only in a non-judicial administrative setting.

**I. POLICY:**

The use of body worn cameras are a valuable tool for promoting transparency in law enforcement by accurately recording contacts and interactions between members of the public and deputies, documenting evidence, deputy training, preventing and resolving complaints of deputy misconduct brought by members of the public, defending against civil litigation and strengthening the sheriff's office performance and accountability. The Westmoreland County Sheriff's Office employs body cameras for the benefit of law enforcement and the community we serve, including simultaneously and objectively documenting information about the details of contacts and interactions between members of the public and deputies, increasing , professionalism, helping the sheriff's office evaluate and improve deputy performance, allow the sheriff's office to identify, correct larger structural problems within the sheriff's office and demonstrate that all deputies are engaged in constitutional law enforcement on a consistent basis.

**II. PURPOSE:**

To enhance the services provided to the community, the Westmoreland County Sheriff's Office authorizes the use of body worn camera technology as an additional layer of documentation of events, actions, conditions and statements made during critical incidents to assure the public that the sheriff's office is earnest about transparency and deputy accountability and facilitate the strengthening of trust and the sheriff's office authenticity within the community and to improve deputy's reports, collection of evidence and testimony in court. The use of body worn camera technology is meant to assist and compliment deputies in the performance of their duties and is not meant to replace or relieve the deputy of submitting all required written reports.

### III. LEGAL AUTHORIZATION TO RECORD:

- A. In conformity with *Virginia Code 19.2-61*, Definitions and *Virginia Code 19.2-62*, Interception of Wire, Electronic or Oral Communications, an individual that is a party to a conversation may record that conversation. Additionally, the Supreme Court ruled in *Pennsylvania vs. Muniz*, that a deputy has the right to observe what the deputy can see if the deputy has a legal right to be present. It follows that if a deputy may observe, a deputy also has a right to photograph or videotape. The recording of an interaction between a member of the public and a deputy, whether recorded by the deputy or the member of the public is protected and allowed by virtue of "one party consent."

### IV. OBJECTIVES:

- A. To augment the wellbeing of deputies and the public.
- B. To accurately document statements and events during the course of an incident and elevate the behavior on both sides of the body worn camera.
- C. To enhance a deputy's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation and testimony.
- D. To preserve visual and audio information for the use in current and future investigations.
- E. To provide an impartial measurement for self-critique and field evaluation during deputy field training, coaching, counseling sessions, and the opportunity to raise standards of performance when it relates to tactics, communication and community service.
- F. To enhance the public trust by building positive relationships with the community and the professionalism of deputies by preserving and making available factual and accurate representations of deputy-citizen interactions in the form of audio and video recordings.
- G. To assure the public that the sheriff's office is earnest about transparency and deputy accountability and facilitate the strengthening of trust and the sheriff's office authenticity within the community.
- H. To increase the perceived legitimacy and sense of procedural justice that the community has about the Westmoreland County Sheriff's Office.

V. EQUIPMENT:

A. The approved Body Worn Camera, hereafter referred to as "BWC", shall be the WATCHGUARD VISTA.

1. The BWC has 720 p HD resolution, 130 degree wide angle field of view, adjustable 40 degree rotatable lens, with an extended capacity battery providing nine hours of continuous HD recording.
2. The approved BWC mounting hardware is the auto-aligning magnetic undershirt base front assembly with locking pins.

VI. PROCEDURES:

A. Mandated Training:

1. All patrol deputies' are required to wear the BWC during their assigned shift.
2. Prior to a deputy being issued, equipped and utilizing a BWC, the deputy shall be required to attend a sheriff's office in-house training program addressing the following points at a minimum:
  - a. All practices and protocols contained within this general order which will be distributed to all deputies during the training.
  - b. An overview of relevant Virginia laws governing consent, evidence, privacy and disclosure to the public.
  - c. Enumerate the procedures for operating the BWC's safely and efficiently.
  - d. Enumerate the procedures for tagging recorded data.
  - e. Enumerate the procedures for uploading, accessing and reviewing data.
  - f. Enumerate the procedures for documenting and reporting a malfunctioning device or a supporting system.
  - g. Training on implicit bias and its effects on policing.
3. An annual refresher class will be required to address the following:
  - a. Usage and protocols
  - b. Technology updates on equipment

- c. Liability and legal issues
- d. Community feedback
- e. Audit review discoveries
- f. Policy changes pertaining to BWC use

B. BWC Body Location:

1. To produce an effective recording, the tested and approved location for the BWC, is the top of the BWC shall be placed below the right shirt pocket flap (left portion of the shirt pocket flap) and the external magnetic mount shall align with the adjacent shirt button seam.
  - a. The BWC undershirt magnetic base will be affixed to the Velcro portion of the deputy's body armor with the supplied Velcro straps for BWC stability.
  - b. The deputy will adjust the 40 degree adjustable BWC lens for optimal aiming.
  - c. The same location will be utilized for the winter jacket.
2. The BWC shall be affixed to the Class A uniform shirt or winter jacket utilizing the issued chest mount magnetic undershirt base and the front assembly with locking pins.

C. Deputy BWC Maintenance and Care:

1. It is the exclusive responsibility of the deputy to ensure that their BWC is fully charged prior to the start of their shift, its function ability, and adequate event storage is available. The deputy will be required to activate the record button to confirm the above is functional and will tag the event as **TEST**.
2. In the event the BWC has been lost, stolen, damaged or sustains a malfunction, the deputy will immediately contact their immediate supervisor, who in turn will contact the administrative first sergeant to resolve the issue or the support services lieutenant.
3. To prevent damage when the cleaning of the BWC lens is necessary, only an approved lens cleaning fluid and cleaning tissue will be applied.

D. Operational Procedures for BWC use:

1. Deputies shall inform members of the public that they are being recorded as close to the inception of the encounter as is reasonably possible, unless an immediate threat to the enforcement member's life or safety makes notification impossible or dangerous, in which

case the deputy should notify the person(s) as soon as it is safe to do so.

2. Deputies shall cease recording an event, situation or circumstance at the request of a member of the public in the following circumstances:
  - a. During consensual encounters in locations where members of the public have a reasonable expectation of privacy, such as a residence or hospital room, a deputy shall offer the member of the public the option to have the BWC discontinue its recording. If the member of the public requests the recording be discontinued the deputy shall immediately discontinue use of the BWC.
  - b. When interacting with an apparent crime victim, the deputy shall, as soon as feasible, ask the apparent crime victim if they want the deputy to discontinue use of the BWC. If the apparent crime victim responds affirmatively, the deputy shall immediately discontinue use of the BWC.
  - c. When interacting with a person seeking to anonymously report a crime or assist in ongoing law enforcement investigation, a deputy shall, as soon as feasible, ask the person seeking to remain anonymous, if they would like to remain anonymous and would like the deputy to discontinue use of the BWC. If the person seeking to remain anonymous responds affirmatively, the deputy shall immediately discontinue use of the BWC.
  - d. All offers by deputies to discontinue the use of the BWC, and the responses thereto, shall be recorded by the BWC prior to discontinuing the use of the BWC.
3. Deputies while on duty or assigned to a sheriff's office sanctioned off duty assignment where law enforcement powers may be anticipated, shall wear the BWC. The use of a privately-owned body worn camera, under any circumstances is not permitted and therefore is **PROHIBITED**.
4. Upon being dispatched for a law enforcement related call for service or activity while on duty, whether by radio, MDT, or verbally, the deputy shall activate the BWC to record mode and verbally announce a preamble stating the nature of the call.
5. During the hours of darkness and/or prior to entering an unlit structure, a deputy shall activate and sustain the covert mode of the BWC.
6. To thwart allegations of discretionary recording or tampering, unless otherwise documented within this general order, the deputy

will continue to record the event uninterrupted until the event is concluded or the deputy has departed the scene.

7. Upon the termination of the event and prior to discontinuing the recording, the deputy will verbally state a post enunciation stating the event disposition.
  - a. If a deputy activates his or her BWC during an event, the deputy shall document within the narrative portion of the offense report of its existence.
  - b. If it is a non-reportable event, it will be noted within the CFS report of its existence.

#### E. Required Activation of the BWC:

1. Although deputies are not required to record all encounters with citizens, deputies are required to record all law enforcement related encounters and activities. This general order does not have the intent to describe every possible circumstance; however the following examples of incidents shall be recorded.
  - a. All calls for service where citizen contact is made.
  - b. All traffic stops.
  - c. All vehicle pursuits
  - d. All citizen, victim, witness transports
  - e. All investigatory stops
  - f. All foot pursuits
  - g. Any and all arrests
  - h. Any and all searches
  - i. Evidence seizure
  - j. Miranda warnings and the response from the in custody individual
  - k. Any and all statements uttered by citizens, victims, witnesses and suspects
  - l. K-9 searches of vehicles
  - m. Search warrants executed by the SRT team
  - n. Any incident that the deputy believes should be recorded for the official purposes of law enforcement.

- o. During the course of any encounter with the public that becomes adversarial after initial contact

**NOTE: IF IN DOUBT RECORD IT**

A. Prohibited Recording:

- 1. BWC's will not be utilized to record the following situations:
  - a. Surreptitiously record communications with any and all Westmoreland County Sheriff's Office employees.
  - b. When deputies and other Sheriff's Office employees are on break or are otherwise engaged in personal or non-work related activities.
  - c. Encounters with undercover law enforcement or informants.
  - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom, or locker room.
  - e. In any location where deputies and other Westmoreland County Sheriff's Office employees have a reasonable expectation of privacy, such as a restroom, locker room, or station house office, hallway or break room.
  - f. Conversations with other sheriff's office personnel that involve case tactics or strategy.
  - g. The purposeful and intentional activation of BWC's during personal conversations between supervisors and deputies involving counseling, guidance sessions, or personnel evaluations.
  - h. In any public, private or parochial elementary or secondary school, except when responding to an imminent threat to life or health.
  - i. Courts.
  - j. Correctional Facilities.

B. Event Category Tagging:

- 1. The event tag function is used to classify a recorded event and is used to control how Evidence Library Software applies preset retention policies to recorded events. Some events are

automatically archived or purged at the end of their configured retention period. It is compulsory that deputies correctly tag their events to prevent being archived or improperly purged.

2. The following is a list of category event tags, which may be used alone or in combination as events warrant:
  - a. Test
  - b. Domestic
  - c. Arrest
  - d. Use of Force
  - e. Vehicle Pursuit
  - f. DUI/DUID
  - g. Traffic Accident
  - h. Traffic Stop/Summons/Warning
  - i. Civil process
  - j. Evidentiary
  - k. Non Evidentiary
  - l. ECO and TDO

#### C. Uploading, Viewing, Duplication and Ownership of BWC Data:

1. Prior to the conclusion of a deputies shift assignment, he or she will place their BWC into the docking base to upload the BWC data which under normal operating conditions the upload procedure is completed within ninety seconds.
  - a. In the event due to time constraints at the completion of the deputies assigned shift or location within the county, the deputy will be permitted to upload the BWC at the beginning of his or hers next assigned shift.
  - b. Regardless of any situation all data contained within the BWC will be uploaded prior to the end of the deputy's last assigned work day of the week.
2. Regardless if the BWC is in the on or off mode, the data is automatically transferred to the Evidence Library.

3. Due to the technological advancements and data encryption of the BWC, the deputy is unable to view, edit, copy or otherwise tamper with the data from the BWC.
4. Deputies will be assigned a unique user name and password to access the Evidence Library to only view their event recordings.
  - a. Deputies shall have unlimited access to their BWC data.
  - b. The deputy will submit the required form to obtain copies of the event to the administrative first sergeant.
  - c. Deputies should review the BWC media prior to completing offense reports to ensure accuracy.
  - d. As soon as practical, the deputy will make three DVD copies of the event, if evidentiary in nature:
    - 1) A master copy which will be packaged/sealed in a DVD protective sleeve, as directed in General Order 18-02, marked as MASTER, and kept within the deputy's master case file,
    - 2) A DVD working copy for the deputy to review for case documentation and preparation.
    - 3) A DVD copy of the event to be forwarded to the Commonwealths Attorney's office.
5. In the event a deputy is involved in any incident involving use of force, the deputy will immediately relinquish the physical custody of their BWC to a supervisor in order to maintain chain of custody, and the supervisor will upload the BWC data.
  - a. The involved deputy will be not be permitted to view the recorded event, prior to making a written statement, which may or may not be utilized in an administrative review or a criminal or civil proceeding.
  - b. Viewing a video prior to preparing and providing a written statement influences a deputy's representation of his or her perspective of the event at the time that he or she used force. It is the deputy's ability to articulate his or her perception of the event, not match his or her perception to that of the recorded event.
  - c. The deputy shall complete his or her use of force documentation and then immediately sit down with the supervisor and view the video.

- d. If there are any discrepancies between the deputy's written documentation and the event video, the supervisor will provide an explanation within the supervisor's investigatory report.
  - e. Regarding deadly force incidents, after the deputy provides a written statement of his or her perceived version of the event, the video can be viewed during the deputy's interview with a supervisor and any discrepancies shall be addressed at that time within the supervisor's investigatory report.
6. Supervisory Review of Event Data:
- a. Field Training officers will be permitted to view the recruits BWC media to provide immediate training or remedial training.
  - b. A supervisor is authorized to view a deputy's BWC data in relation to the following circumstances:
    - 1) To investigate a complaint against a deputy or a specific incident in which the deputy was involved.
    - 2) To identify data for training purposes or for instructional value.
    - 3) When deputies are within a probationary review period or while the deputy is active in a field training program.
    - 4) When a pattern of verbal or physical abuse is alleged or determined in an early intervention.
  - c. The administrative first sergeant will conduct a monthly random review of BWC data to ensure compliance with this general order and an overall evaluation of a deputy's performance
  - d. The administrative first sergeant will conduct a monthly random review of BWC data to ensure compliance with this general order and an overall evaluation of a deputy's performance.
7. Any member of the public, parent or legal guardian of a minor, or a deceased subject's next of kin or legally authorized designee who is a subject of video footage, has the right to review that footage pursuant to the Government Data Collection and Dissemination Practices Act, Virginia Code Section 2.2-3800 et seq and shall be

permitted to review that specific video footage at any time during regular business hours.

8. All data, images, video, audio and metadata, (“BWC data”) captured, recorded, or otherwise produced by the BWC is the sole property of the Westmoreland County Sheriff’s Office.
  - a. Deputies are not authorized and will not make copies of any recordings for their personal use, distribution to unauthorized persons, or posting on social media sites and are prohibited from using a recording device (such as a phone camera or secondary video and audio camera) to record media from the Evidence Library Software. Violations will be subject to disciplinary recourse.
9. The Administrative Services Division shall make DVD copies of BWC data as requested in accordance with this general order.
  - a. Requests for BWC metadata from other law enforcement agencies shall be made on that agencies official letterhead and signed by the agency head.
  - b. Requests from the media, a non-law enforcement agency or an individual will be subject to the FOIA laws. All such requests will be in writing and from individuals entitled to view such recordings in accordance with this policy and applicable law. Records will be kept of all requests and all duplicates made and the distribution of such duplicates.
  - c. All FOIA related duplicates will be accompanied with a \$5.00 fee per event.

VII. The preservation, Management and Information Technology, (IT) regarding Stored Metadata.

A. Preservation:

1. All BWC data related to any criminal proceeding, civil complaint filed and/or pending litigation or an employee complaint will be preserved in accordance with the Library of Virginia, GS-17.
2. Evidentiary:
  - a. BWC data that captures any incident or encounter, a crime, arrest, summons, use of force, or a confrontational encounter with a citizen will be flagged and retained for a minimum of two (2) years or the applicable statute of limitations period if the video is relevant to a criminal complaint, charge or investigation, whichever is greater to allow the conclusion of an investigation, court proceedings,

or an administrative investigation for which they might be used.

- b. BWC shall also be flagged and retained for a minimum two (2) years from the date of the recorded incident if requested by:
    - 1) An enforcement member, if the video footage is being retained solely and exclusively for training purposes;
    - 2) Any member of the public who is a subject of the video footage;
    - 3) Any parent or legal guardian of a minor who is the subject of the video footage; or
    - 4) A deceased subject person's next of kin or legally authorized designee.
  - c. If a deputy is involved in a shooting, in custody death or any incident that results in a person's bodily harm or death, the BWC recording will be archived and maintained for perpetuity.
  - d. Use of force BWC recordings where civil litigation is anticipated, traffic accidents, etc., will be archived for a period of two years and one month, unless there is litigation, whereas the event will be purged at the conclusion of the litigation and the appeals process is concluded.
  - e. Evidentiary videos, at the conclusion of the investigation, court proceeding, or administrative hearing for which they were used shall be purged unless the data subject requests they be retained.
3. If the deputy captures an event on his or her BWC in relation to a homicide, rape, robbery, maiming or any other egregious felony crime, the deputy shall be required to package and label a DVD copy of the event, as directed in General Order 18-02 and place the DVD into property and evidence.
4. Non-Evidentiary:
- a. BWC data that captures innocuous events such as test, assisting a motorist, clearing a roadway hazard, civil process, etc. will be flagged for thirty days and will subsequently be purged on the thirty first day.
  - b. If a deputy is involved in an incident where he or she reasonably believes a complaint may be alleged against him or her by a citizen, the deputy will compose an inter-office memorandum to their immediate supervisor providing a

synopsis of the circumstances and requesting additional time to be added to the event to delay purging.

The memorandum will be forwarded through the chain of command to the administrative first sergeant, (primary), or in his or her absence to the lieutenant of support services, (secondary).

#### B. Management:

1. The BWC digital metadata files which are archived within the Evidence Library are maintained by the administrative first sergeant, who is the primary, and the lieutenant of support services who is the secondary.
2. The administrative first sergeant is the supervisor of the BWC evidence library and has full access to all use rights. The responsibilities of the supervisor are as follows and at a minimum:
  - a. Assigning and tracking the inventory of equipment.
  - b. User and password issuance
  - c. User access rights
  - d. Quality control
  - e. Maintaining and conducting an audit trail
  - f. The administrative first sergeant serves as the sheriff's office liaison to the manufacturer in relation to equipment operation, equipment that is non-operational and any and all related matters.

## C. Information Technology, (IT):

### 1. Storage:

- a. The designated server is a HP DL180G6 server with thirty six TB of storage. All BWC data will be stored within a secured partition.
- b. The BWC Evidence Library software access will be permitted through Active Directory Logon permissions solely based on Security Groups.
- c. No individual user access shall be allowed and all access will be controlled by the login policy.

### 2. Back-Up:

- a. All metadata that is selected for backup is handled internally on the HP DL 180G6 and will use Microsoft DFS replication services to back up the data to a mirrored server.
- b. All data is backed up daily and the metadata is encrypted and limited access is provided based on the access control.
- c. All data from this replication will be stored locally and will be removed based on the Watch Guard Video software's retention policies.

### 3. Security:

- a. Based on current internal policies and Windows security there are minuscule apprehensions with security issues.
- b. The Westmoreland County Sheriff's Office deploys and utilizes ESET Anti-Virus and Endpoint protection on this and all servers and office PC's.
- c. Sheriff's Office internet access is further protected by Watch Guard firewall and ESET.