

Washburn County Sheriff's Office

Body-Worn Cameras & Audio/Video Recorders Policy

Adopted/Effective Date October 14, 2024	Revised/Effective Date April 28, 2025
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I. Purpose:

This policy provides guidelines for the use of audio and video recording devices by deputies of the Washburn County Sheriff's Office while in performance of their duties. Portable audio/video recording devices include all recording systems, whether body-worn, handheld, or integrated into portable equipment.

This policy does not apply to interrogations or interviews conducted at any Washburn County Sheriff's Office facility, authorized undercover operations, wiretaps, or concealed listening devices.

II. Policy:

Deputies of the Washburn County Sheriff's Office will be provided with access to portable audio/video devices including Body-Worn Cameras (BWC), for use during the performance of their duties. The use of recording devices is intended to enhance the mission of the office by capturing contacts between deputies of the Sheriff's Office and the public.

Any violation of this policy is subject to Washburn County Sheriff's Office's current disciplinary procedures.

III. Definitions:

Body-Worn Camera (BWC): A device worn by a law enforcement officer that makes electronic audio and video recordings of activities that take place during any law enforcement action. The only BWC authorized by the Washburn County Sheriff's Office is a department issued Motorola V700. Personal video recording devices are prohibited.

Audio Recorder: An electronic device capable of recording sound for playback.

Video Recorder: An electronic device capable of recording live-motion video for playback.

IV. Procedure:

Wisconsin law Wis. Stat. § 968.31(2) (b) permits any individual to covertly record any conversation in which one party to the conversation has given their permission. Deputies may covertly record any conversation during the course of a criminal investigation in which the deputy reasonably believes that such a recording will be lawful and beneficial to the investigation.

A. Deputy Responsibilities

1. Prior to going into service, deputies will be responsible for making sure their Office issued recording equipment is in working order.
2. Deputies shall report all non-functioning recording equipment to their immediate supervisor and obtain a functioning device as soon as reasonably practical.

3. Uniformed deputies should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded when reasonably practicable.
4. Non-uniformed deputies should wear the recorder in a conspicuous manner unless conducting a lawful recording in an undercover capacity.
5. Deputies shall not edit, erase, alter, duplicate, copy, share or distribute recordings in any manner without written approval of administration.
6. Deputies shall document the existence of a recording in any incident report and/or citation. This would include any instance where the recorder malfunctioned or was deactivated by the user. The reason for deactivation shall be documented.
7. Recordings are not a replacement for a thoroughly written report.
8. Deputies aware of recordings that may serve as a training aid should notify a supervisor. Those deputies involved in a recording that has been deemed a training aid will be notified by a supervisor of the intent to use the recording for training purposes.

B. Privacy Expectation

1. All recordings created by deputies on any office issued device, or on any personally owned device made while acting in the official capacity of the Washburn County Sheriff's Office, shall remain the property of the Sheriff's Office. Deputies shall have no ownership interest or expectation of privacy in the content of the recording.

C. Prohibited Use of Recorders

Recording devices shall be used only in conjunction with official law enforcement duties.

1. Deputies are prohibited from using department-issued recorders and recording media for personal use. Deputies are also prohibited from making personal copies of any recording created as part of their official duties.
2. Deputies are prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with an issued device or a personally owned device. Deputies will not duplicate or distribute such recordings, except for authorized Office business purposes. All such recordings shall be retained remotely by the Sheriff's Office.
3. Deputies must have approval from administration before using a personally owned recording devices while on-duty. Use of a personally owned recorders while on duty shall comply with provisions of this policy, including retention and release requirements.
4. Recorders shall not be used by any deputy for the purpose of embarrassment, harassment, or ridicule and shall not be generally used to record:
 - a. Communications with other law enforcement personnel without the permission of the Sheriff, or their designee.
 - b. Encounters with undercover officers or confidential informants.
 - c. When on break or otherwise engaged in personal activities.
 - d. In any location where individuals have a reasonable expectation of privacy.

D. Deputies Required to Wear BWC Recording Devices

The following deputies shall be required to be equipped with BWC recording devices and adhere to the provisions of this Policy when performing duties.

1. All uniformed deputies while acting in the performance of their duties.

E. Deputies Not Required to Wear BWC Recording Devices

The following deputies are not required to be equipped with audio/video recording devices.

1. Deputies assigned to administrative positions within the agency.
2. Non-uniformed deputies assigned to Investigations.
3. Deputies acting as hostage or crisis negotiators for the S.R.T. Team.
4. Deputies meeting with confidential sources or recruiting confidential sources.
5. Deputies engaged in undercover operations.
6. Deputies assigned to S.R.T.

F. Activation / Deactivation of Audio/Video Recorder

Activation:

1. Deputies will activate the recorder any time they believe it would be appropriate or valuable to record an incident.
2. Portable recorders will be activated in any of the following circumstances:
 - a. Any enforcement or investigative contacts, including stops and field interviews.
 - b. Traffic stops including, but not limited to, traffic violations, motorist assistance, and all crime interdiction stops.
 - c. When assisting other deputies/officers during an incident/contact.
 - d. Self-initiated activity.
 - e. Any contact that becomes adversarial after the initial contact.
3. Deputies will not jeopardize their safety, or the safety of others in order to activate a portable recorder or change the recorder media. However, the recorder should be activated as soon as reasonably possible.
4. Deputies should be sensitive to the dignity of all individuals being recorded and exercise discretion to respect privacy by discontinuing recording whenever such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using the same criterion. Recording may resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

Restricted Activation:

1. A deputy shall not activate a recorder during any in-person or video court proceeding unless the deputy is responding to a call for service or is authorized to use force or authority to control a situation.
2. Unless a deputy is actively engaged in investigating the commission of a criminal offense, responding to an emergency, or reasonably believes that force or authority may be required, the deputy shall not activate a recorder, or shall deactivate their recorder when the deputy enters a school, youth facility, hospital or place of worship.

Deactivation:

1. Once a recording device is activated, the recorder should remain on continuously until the deputy reasonably believes that their direct participation in the incident/contact is complete or the situation no longer fits the criteria for activation.
2. Recording may be stopped during significant periods of inactivity within a call/incident, such as:
 - a. Report writing

- b. Extended breaks from direct participation in the call/incident or with persons involved.
 - c. While in a medical facility waiting for a person in custody to be medically cleared. The recorder may be re-activated if and when the need for contact with the person arises again.
- 3. Other instances where a deputy may stop a recording include:
 - a. While conferring with other deputies/supervisors regarding tactics or strategies for a call.
 - b. Where an informant or a citizen requests the recording device be turned off before providing information.
- 4. When stopping a recording prior to the completion of an event or incident, deputies shall make a verbal notation on the recording.

G. Explosive Device

Many portable recording devices including body worn cameras and audio/video transmitters emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

H. Identification and Preservation of Recordings

To assist with identifying and preserving data and recordings, deputies should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

- 1. Deputies shall transfer, tag, or mark recordings when they reasonably believe:
 - a. The recording contains evidence or information relevant to a potential criminal, civil, or administrative matter.
- 2. Administration will decide on a case-by-case basis.
 - a. A complainant, victim, or witness has requested non-disclosure.
 - b. A complainant, victim, or witness has not requested non-disclosure, but the disclosure of the recording may endanger the person.
 - c. Disclosure may be an unreasonable violation of someone's privacy.
 - d. Medical or mental health information is contained within the recording.
 - e. Disclosure may compromise an undercover officer or confidential informant.
 - f. The recording or portions of the recording may be protected under the Wisconsin Public Records Law (Wis. Stat. § 19.31).

I. Review of Recordings

- 1. When preparing written reports, deputies should review their recordings as a resource, but should refrain from using the fact that a recording was made as a reason to write a less detailed report.
- 2. Supervisors and administration are authorized to review relevant recordings any time they are investigating alleged misconduct, reports of meritorious conduct, or whenever such recordings would be beneficial in reviewing a deputy's performance.
- 3. Recording files may also be reviewed:
 - a. By deputies of the office who are participating in an official investigation.
 - b. By other law enforcement agencies conducting a joint investigation. Video/audio recordings will not be released to other law enforcement agencies without approval from the Sheriff or their designee.

- c. By office administration when participating in an official administrative investigation. Chief Deputy shall review upon a completed Deputy Complaint form being fully completed by the complainant in compliance with that policy.
- d. Pursuant to lawful process or by court personnel authorized to review evidence in a related case.
- e. By media personnel with permission of the Sheriff, or his designee.
- f. When complying with an open records request, if permitted.

J. Review of Critical Incident Recordings

- 1. Deputies involved in shootings or other uses of Deadly Force shall not be provided, nor shall they review recordings of the incident prior to the conclusion of an initial statement to an investigator. Once the initial statement is provided, the involved deputy(s) will be permitted to view recordings of the incident prior to providing additional statements to investigators.

K. Release/Redaction of Video/Audio Recordings

All stored video and audio recordings are subject to open records requests as allowed by state law or order of the court (WI Stat. § 165.87(3), and 19.35(3)(h)). Requests should include the date, time, location and the names of the parties involved.

- 1. All audio/video recordings will be subject to review by the agencies designee prior to being released.
- 2. Recordings containing information that is confidential or exempt from disclosure or release under State or Federal law may be redacted so those entitled to disclosure may still view portion(s) of the recording.
- 3. Any requests for recordings shall be routed through the Custodian of Records or their designee prior to releasing to the public.
- 4. Washburn County Sheriff's Office may impose a fee upon a requester for the actual, necessary, and direct cost of redacting, whether by pixelization or other means, recorded audio or video content to the extent redaction is necessary to comply with applicable constitutional, statutory, or common law.
- 5. An authority may not impose the fee under subd. 4. with respect to a request for records containing audio or video content for which all of the following apply:
 - a. If the requester is an individual, the requester provides written certification to the authority that the requester will not use the audio or video content for financial gain, not including an award of damages in a civil action. Any individual providing a false certification under this subd. 5. a. shall be subject to a forfeiture of \$10,000 for each violation.
 - b. During the calendar year in which the authority receives the request, the same requester has not made more than 10 requests to the authority for records containing audio or video content, including the current request but excluding any request subject to subd.-6. or 7.

6. An authority may not impose the fee under subd. 4. with respect to a request for records containing audio or video content if the requester is an individual directly involved in the event to which the requested records relate, that individual's attorney or other authorized representative, or that individual's parent or guardian if the individual is under the age of 18.
7. An authority may not impose the fee under subd. 4. with respect to a request for records containing audio or video content if the event to which the requested records relate is a shooting involving an officer of a law enforcement agency.
8. In calculating the fee imposed under subd. 4., the rate for an actual, necessary, and direct charge for staff time spent redacting shall be based on the pay rate of the authority's lowest paid employee capable of performing the task.
9. An authority may not impose the fee under subd. 4. with respect to a request for records containing audio or video content unless prior to fulfilling the request the authority provides to the requester in writing an estimate of the amount of the fee to be charged.

L. Coordinator

The Sheriff, or their designee, should designate a coordinator responsible for ensuring compliance under (Wis. Stat. §165.87). The coordinator will be responsible for the following:

1. Establish procedures for the security, storage, and maintenance of data and recordings.
2. Establish procedures for accessing data and recordings.
3. Establish procedures for logging and auditing access.
4. Establish procedures for downloading, transferring, tagging, or marking events.
5. Provide or coordinate training to members of the office who use, maintain, store, or are responsible for the release of records and recordings. Training will include but is not limited to:
 - a. Review of Policy (Body Worn Cameras & Audio/Video Recorders)
 - b. Use of portable audio/video devices.
 - c. Data retention requirements.
 - d. Release of data (open records request)
6. Periodically review the Sheriff's Office practices regarding the use of, maintenance, and storage of recordings to confirm policy compliance.

M. Retention of Recordings

All recordings shall be retained for a minimum of 120 days after the recording (Wis. Stat. §165.87). Exceptions to the 120-day retention period are as follows:

1. Recordings shall be retained until the final disposition of any investigation, case, or complaint to which the recordings pertaining to the following.
 - a. An encounter that resulted in the death of any individual or actual or alleged physical injury to an individual.
 - b. An encounter resulting in a custodial arrest.
 - c. A search during an authorized temporary questioning pursuant to Wis. Stat. §968.25.
 - d. An encounter that included the use of force by a law enforcement officer, unless the only use of force was the use of a firearm to dispatch an injured wild animal.
2. Deputies shall label recordings with the CFS number or case number, the location of the event, and the suspect's name. They shall also tag recordings with a category for proper

retention period. If multiple categories apply to a specific event, deputies shall choose the category with the highest retention period.

- a. Traffic - retained for 120 days
 - b. CFS - retained for 120 days
 - c. Test - retained for 120 days
 - d. Mental Health - retained for 120 days
 - e. Accident - retained for 2 years
 - f. Misdemeanor - retained for 3 years
 - g. Felony - retained for 7 years
 - h. Use of Force - retained indefinitely
 - i. Death Investigation - retained indefinitely
 - j. Training - retained indefinitely
3. Recordings may be retained beyond 120 days if a request or preservation directive is made within 120 days after the date of the recording by a law enforcement officer of this office, another law enforcement agency, member of the board of fire and police commission, prosecutor, defendant, or a court.

N. Training

1. Deputies who are assigned audio/video recording devices must complete an agency approved and/or provided training program to ensure proper use and operations.
2. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.