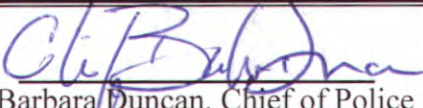
	SALISBURY POLICE DEPARTMENT
	Written Directive: Body Worn Cameras
	Publication Date: September 20, 2017
	 Approved: Barbara Duncan, Chief of Police
Related CALEA Standards: 41.3.8	<u>Body Worn Cameras</u> Section #213

BODY WORN CAMERAS (WEARABLE VIDEO RECORDERS)

1. Policy:

The Salisbury Police Department has developed a policy for the utilization of body worn camera (wearable video / audio recorder) systems to insure an accurate and unbiased documentation of the interaction in law enforcement related incidents.

To maximize effectiveness of the camera systems and maintain integrity of evidence related documentation, all personnel assigned the use of these devices will adhere to the procedures outlined within this written directive.

These systems will be used for documenting and collecting audio and video evidence to be used in criminal proceedings, civil litigation, improvement of officer safety, and investigation of allegations of officer misconduct. Officers assigned the use of these devices shall adhere to the operational objectives and protocols outlined herein to maximize the effectiveness of the body worn camera (wearable audio / video recording system) program in an effort to maintain the integrity of evidence and related documentation.

2. Purpose:

The purpose of this policy is to provide officers of the Salisbury Police Department with guidelines for use, management, storage, review, and retrieval of the audio-visual media recording systems, BWCs (body worn cameras).

3. Civil Liability:

Law Enforcement by its very nature is frequently put into the position of potential liability. The use of the BWC (wearable audio/video recording system) will better enable the agency to defend against frivolous and unfounded claims.

4. Criminal Prosecution:

The use of the BWCs (wearable audio / video recording system) will affect criminal prosecutions similar to the way it affects civil liability in that it will reduce costs both in prosecution and the time an officer spends in court. The audio/video documentation of traffic infractions, as they occur and/or the statements of individuals at the time of interviews are valuable pieces of evidence. In addition, audio/video evidence is very useful because it can depict the scene and environment accurately.

5. Public Relations:

Successful law enforcement agencies recognize the value of maintaining good relations with the public they serve. It would be reassuring for citizens to know that an agency is proud of the performance of the police officers serving them and routinely records their performance. While the intent of the recordings is to provide an accurate record of an incident, it will be viewed as a tool to provide protection for officers and citizens alike. When a controversial incident occurs, a review of the recording may clarify the actions and thereby justify or dispel the allegations that were made.

6. Training:

Another important function of the BWCs (wearable video / audio recorders) is for verification of officer performance. This may be utilized as a tool to illustrate inappropriate behavior or reinforce appropriate behavior, thus improving interpersonal skills and officer safety. By reviewing an incident, the officer can identify potential problem areas in his or her tactics and demeanor and make adjustments. The department will be responsible for ensuring that employees are properly trained on how to use the BWCs (wearable video / audio recorders).

7. Legal Guidelines:

- A. All recorded media, images, and audio are property of the department and shall not be copied, released, or disseminated in any form or manner outside the parameters of this written directive without the expressed written consent of the chief of police.
- B. Under no circumstances shall any member of the department make a personal copy of any recorded event without prior written permission of the chief of police.
- C. BWC video / audio recordings from cameras will be released as required by the Maryland Public Information Act (MPIA) or other governing law. Violations of this policy may be cause for disciplinary action.

- D. Defense attorneys will examine the officers' ability to erase or alter portions of the recordings. The BWC (wearable video recorders) system utilized by this department contains special data that is displayed on the video track and is embedded into video recording itself to show that it has not been altered. At a minimum, this includes the date and time. The set-up menu for the audio/video recording systems will be locked and secured, thereby not allowing officers access to change the time, date, ID, etc. Additionally, the systems contain an internal audit processes.
- a) Courts and Judicial Proceedings, Section 10-402, of the Annotated Code of Maryland, makes it unlawful, with some exceptions, for any person to intercept, endeavor to intercept, disclose, endeavor to disclose, use, or endeavor to use any audio communication unless all parties to the communication have given prior consent to having the *audio* recording made.
 - b) Therefore, officers will not utilize the BWCs (wearable video recorders) to make audio recordings unless consent is obtained or the audio recording is made pursuant to the exception contained in Section II C of this General Order. Courts and Judicial Proceedings, Section 10-402, does not restrict or place consent requirements on video recordings made without audio.
 - c) It is lawful under the Courts and Judicial Proceedings, Section 10-402 a law enforcement officer in the course of the officers regular duty to intercept an oral communication with a BWC or an electronic control device (ECD) capable of recording video and oral communications if;
 - i. The law enforcement officer is in uniform or prominently displaying the officers badge or other insignias;
 - ii. The law enforcement officer is making reasonable efforts to conform to standards in accordance with the section 3-511 of the public safety article for the use of BWC's or electronic control devices capable of recording video or oral communications;
 - iii. The law enforcement officer is a party to the oral communication;
 - iv. Law enforcement notifies, as soon as is practicable, that the individual is being recorded, unless it is unsafe, impractical or impossible to do so; and
 - v. The oral interception is being made a part of a video tape for digital recording.
 - d) It is lawful for a law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence:
 - i. Of the commission of:
 - 1) Murder;
 - 2) Kidnapping;
 - 3) Rape;
 - 4) A sexual offense in the first or second degree;
 - 5) Child abuse;

- 6) Child pornography under § 11-207, § 11-208, or § 11-208.1 of the Criminal Law Article;
 - 7) Gambling;
 - 8) Robbery under § 3-402 or § 3-403 of the Criminal Law Article;
 - 9) Felony under Title 6, Subtitle 1 of the Criminal Law Article;
 - 10) Bribery;
 - 11) Extortion;
 - 12) Dealing in a controlled dangerous substance, including a violation of § 5-617 or § 5-619 of the Criminal Law Article;
 - 13) A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;
 - 14) An offense relating to destructive devices under § 4-503 of the Criminal Law Article;
 - 15) Sexual solicitation of a minor under § 3-324 of the Criminal Law Article;
 - 16) An offense relating to obstructing justice under § 9-302, § 9-303, or § 9-305 of the Criminal Law Article;
 - 17) A conspiracy or solicitation to commit offenses as listed above; and
 - 18) If a person has created a barricade situation; and probable cause exists for the investigative or law enforcement officer to believe a hostage or hostages may be involved.
- e) Basic components of the body worn camera system are:
- i. Camera worn by the officer
 - ii. Storage medium
 - iii. Off-site server
- f) BWC's will be used to:
- i. Enhance officer safety;
 - ii. Accurately capture statements and events during the course of an incident;
 - iii. Enhance officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation;
 - iv. Vividly replay those incidents for prosecutors and courts thereby increasing rates of convictions for violations of the law;
 - v. Clearly identify suspects and their vehicles;
 - vi. For internal review purposes, record critical incidents and circumstances for investigations;
 - vii. Capture audio and video information for current and future investigations; and
 - viii. Provide a documented training tool for self-critique and field training

- officer evaluation.
- g) Issuance and utilization:
- i. Patrol and enforcement and support units
 - 1) Officers assigned to units whose primary duties involve interactions with the citizens and/or enforcement related activities (e.g. patrol, TAC, K-9, traffic, Safe Streets Team etc.) shall wear the BWC at all times while on duty.
 - ii. Administrative/Investigative Units
 - 1) Officers assigned to units whose primary duties are administrative or investigative are not required to wear the BWC during the normal course of their duties unless:
 - The officer anticipates participating in enforcement activity (i.e. serving an arrest warrant, executing a search warrant where dynamic entry is needed to obtain evidence, or
 - The officer is detailed to work a uniformed assignment where citizen/police interaction is occurring, or is likely to occur (patrol, parade or uniformed secondary employment, festivals or other community events;
 - iii. Undercover officers
 - 1) Officers deputized as federal task force officers are exempt from wearing a BWC while conducting task force operations and investigations;
 - 2) Officers assigned to undercover and/or vice units are exempt from wearing a BWC while operating in an undercover capacity. Arrest team members assigned to undercover and/or vice units shall wear their BWC in accordance with this policy, taking proper care and caution not to record member acting in an undercover capacity.
- h) General procedure body worn camera system:
- i. It shall be the responsibility of the department to ensure that the BWC audio/video recording system is properly configured according to the manufacture's recommendations. The system shall be activated manually by the officer. Placement and operation of system components shall be based on officer safety requirements in conjunction with this policy. All officers and supervisors who are assigned use of the BWC system shall successfully complete the department's approved course of instruction prior to being deployed with systems in operational settings. The department will be responsible for receiving and approving the course of instruction, through the company supplying the BWC audio/video recording system.

- i) Officer's responsibilities:
 - i. Inspection and general maintenance of the BWC (wearable video recorder) shall be the responsibility of the officer assigned to the device and the equipment will be used within the manufacturer's guidelines and departmental policy.
 - ii. The officer shall perform an inspection of the BWC in accordance with the manufacturer's recommendations covering the following matters:
 - 1) Appropriate boot up mode (i.e. proper light sequence and audio sequence is observed. The sequencing of lights and sound will be instructed during initial user training;
 - 2) Confirm standby mode (green flashing light indicating the BWC is prepared to record);
 - 3) Does the BWC have full or adequate battery life to last the entire shift; and
 - 4) At the end of each shift the officer will dock his/her camera to ensure recorded video footage is transferred to evidence.com.
 - iii. Camera Lens:
 - 1) Camera lens free of debris; and
 - 2) Camera lens orientation
 - iv. Malfunctions or damage of any kind to the BWC shall be reported to the on-duty supervisor as soon as observed. An inoperative BWC will not be used and a notification will be made to IT through the submission of a help desk ticket with a detailed explanation as to what the problems identified;
 - v. Officers are not permitted to borrow a BWC camera from any other employee;
 - vi. Officers will only use the departmentally issued BWC while on-duty.
 - vii. Prior to contacting any person in an enforcement capacity, officers are to activate the BWC. Officers will begin any field interview or other citizen contact with the audio turned off. The audio will only be turned on if circumstances exist that will allow the officer to ask and obtain consent from all parties to the conversation without creating a safety hazard to the officer or any other person at the scene;
 - viii. All officers assigned the BWC will be in uniform. During any initial enforcement contact, officers shall advise the person that an audio recording is being made. That advisement or statement must be included in the recording. (e.g., "You are being audibly/visually recorded");
 - ix. Officers who are assisting another officer or providing backup shall use their BWC to record an incident or contact from another

- perspective. When an assisting officer is also recording, they should, if practical, inform the primary officer of their camera activation. When an officer does not activate the BWC as directed by this policy, because it is unsafe to do so, to gain more information from resident of a high crime area or because activation is prohibited, the officer will document this reason in the appropriate narrative of a supplemental report attached to the original report, if a report is to be completed; and
- x. Officers may review their own original audio/video data once it has been submitted for storage on the server and upon submission of a help desk ticket.

8. **Mandatory Recording:**

- A. If officers are unable to begin recording with the BWC due to circumstances making it unsafe, impossible, or impractical to do so, officers shall begin recording with the BWC at the first reasonable opportunity to do so. The officer shall appropriately tag the recording as evidence. The following recordings will be considered evidence in criminal cases:
 - a) A call for service or other activity that is investigative or enforcement in nature or an encounter between the officer and a member of the public that is investigative or enforcement in nature;
 - b) Any encounter that becomes confrontational after the initial contact;
 - c) Traffic stops to include, but not be limited to, traffic violations, stranded motorists in need of assistance, investigative stops, all suspected DUI stops, and /or other traffic related arrests;
 - d) Code II and III priority responses;
 - e) Vehicle pursuits;
 - f) All transports of prisoners and civilians;
 - g) Crimes in progress;
 - h) Non-traffic related arrests or investigative stops;
 - i) Vehicle searches and inventories;
 - j) Any situation or incident that the officer through training and experience, believes should be audibly and visually recorded; and
 - k) When victims, witnesses or other individuals wish to make a statement or share information but refuse to do so while being recorded, or request that the camera be turned off, officers may turn off the BWC in order to obtain the statement or information. If the encounter begins when the BWC is not actively recording, the officer may, but is not required to, temporarily activate the BWC for the sole purpose of documenting the person's refusal to be recorded. Officers will appropriately tag the recording as evidence so that it may be saved and copied to portable media for evidence storage.

9. Prohibited Activation:

- A. An officer shall not activate a camera to record:
 - a) Agency personnel during routine administrative activities; or
 - b) Non-work related personal activity.
 - c) The officer will not activate his/her BWC when inside a medical facility, until meeting with the complainant / victim on a call for service or when encountering an incident which requires the exercise of law enforcement powers.
 - d) Officers shall be aware of patient's rights to privacy within the medical facility setting. Officers shall not record patients during medical or psychological evaluations or treatments. When recording within a medical facility, officers shall take care to only record the person of interest and shall avoid recording medical documents that are not directly related to the incident being investigated.
 - i. Exception: As in any setting, if confronting a violent or assaultive subject, or if the officer anticipates using force, the officer shall activate the BWC in advance of the encounter or as soon as reasonably practicable.
 - e) Members shall not activate the BWC to record any court proceedings unless confronting a violent or assaultive suspect, or in an anticipated use of force instance.

10. Discretionary Activation:

- A. When not otherwise prohibited by law or agency policy, officers may begin recording with their BWC in circumstances when they determine that doing so would be beneficial to the public interest.

11. Operational Protocols:

- A. When the BWC is activated to document an event, it shall not be deactivated until:
 - a) The event or encounter has fully concluded; or
 - b) The officer leaves the scene and anticipates no further involvement in the event; or
 - c) A supervisor or agency policy has authorized that the recording may cease because the officer is no longer engaged in a related enforcement or investigative activity; or
 - d) When victims, witnesses or other individuals wish to make a statement or share information but refuse to do so while being recorded, or request that the camera be turned off, officers may turn off the BWC in order to obtain the statement or information.
- B. Whenever a video/audio recording is made of an incident and a written report is generated, the officer will document that the BWC camera was activated during the incident. The video/audio recording of any other activity will be at the discretion of

the officer. Officers may provide a verbal narration to explain what the BWC camera is capturing (i.e. crime scenes).

- C. Officers should attempt to keep the video camera positioned in such a manner as to capture the event in its entirety.
- D. Officers will not use the BWC to covertly record other police personnel.
- E. The department recognizes that it may not always be practical to activate the BWC equipment. Officers should not allow the operation of the BWC to interfere with their own personal safety, the personal safety of others, or the safe operation of the police vehicle. If officers are unable to begin recording with the BWC due to circumstances making it unsafe, impossible, or impractical to do so, officers shall begin recording with the BWC at the first reasonable opportunity to do so.
- F. Officers may review the recordings when preparing written reports to ensure accuracy and consistency of the incident. Officers may view BWC data from their own assigned camera or the camera of another involved officer. An officer must document in their written reports whether the BWC data was reviewed.
- G. With the exception of police radios, officers shall ensure that the volume from other electronic devices within the police vehicle does not interfere with the BWC.
- H. Only personnel designated by the chief of police may delete recordings and may only do so pursuant to the provisions of this policy.

12. Squad Commander's Responsibilities:

- A. When an incident arises that requires the immediate retrieval of the recorded data, to include, but not limited to (serious crime scenes, officer involved shootings, departmental accidents), a supervisor will contact the administrative sergeant.
- B. During monthly inspections, supervisors will ensure that the BWC equipment is accounted for and in good operating condition. Supervisors will document malfunctions on the inspection report (SDP-272) and by submitting an IT service help desk ticket.
- C. Supervisors will conduct one random BWC recording check for one selected officer, per squad, per month and document the inspection on SPD-272. Nothing prohibits supervisors from inspecting the same officer more than once, if necessary but should review the videos of all officers assigned to his/her squad. The body worn camera reviews will also be conducted using the evidence.com software, with the officer present. Each review will be documented via a written report submitted through the

chain of command to the appropriate division commander. These random reviews are conducted in order to ensure the body worn cameras are working properly. Random reviews will also be used to evaluate probationary officers' performance and ensure compliance with departmental training and policy. Supervisors will not arbitrarily, routinely or randomly review audio/video recordings for the purpose of identifying minor infractions of department policies or procedures.

- D. Minor infractions that are not criminal in nature, discovered during the routine review of recorded material should be viewed as training opportunities and not as routine disciplinary actions. Should behavior or action become habitual after being informally addressed, the appropriate disciplinary or corrective action shall be taken. Supervisors will not arbitrarily review video/audio recordings for the purpose of identifying minor infractions of department policies or procedures.
- E. Supervisors will also review the recordings of any officer listed in a report as being present during the following:
 - a) Incidents involving injuries to an officer or prisoner;
 - b) Vehicle pursuits;
 - c) Uses of force; or
 - d) Incidents where a complaint has been received.
- F. When a supervisor conducts a BWC review, they shall document the review in the appropriate space provided on the appropriate report i.e. pursuit reports, use of force reports, or complaint against personnel reports. Supervisors shall ensure that these recordings are categorized appropriately.

13. IT Division Responsibilities:

- A. It shall be the responsibility of the IT Division to maintain the back-end server, provide technical support and monitor and maintain adequate cloud level data storage.

14. Retention of Recorded Media:

- A. Retention of non-evidentiary digital video/audio recordings
 - a) Retained for a 120 day period.
 - b) If, during the 120 day retention period a copy of the recordings are needed, officers will make a written request via the "Help Desk Ticket" process to technical support personnel.
 - c) After the audio/video data has progressed through the 120 day retention period, the data will be automatically deleted.
 - d) Some recordings may be retained to be utilized for training purposes and for an indefinite period of time at the direction of the Chief of Police.

- B. Evidentiary digital audio/video recordings will be categorized by the employee who is using the audio/video recorder. The recordings will then be copied to a separate storage medium by the records division. Recording to a separate storage medium will be completed after written request has been made through a help desk ticket and will become the responsibility of the requesting employee.
- C. The following recordings will be considered evidentiary in nature
 - a) Recordings that are associated to any pending criminal or civil court action;
 - b) Recordings that are associated with an ongoing investigation;
 - c) Recordings that involve a complaint against any police department personnel;
 - d) Anytime an officer is injured in the performance of duty;
 - e) Any use of force situation that would require a report;
 - f) At the discretion of the chief of police, or his designee;
 - g) Any recording or event that the employee, through his/her training and experience; believes should be retained; and
 - h) Any Salisbury Police Department employee involved in a departmental motor vehicle accident.

15. Evidence Request and Submittal Of (Digital Audio/Video Recordings):

- A. Videos needed for evidence in court must be requested immediately upon notification that the video is required for court or no later than 30 days in advance of the scheduled court date. This request shall be submitted through the Help Desk for proper preparation for court.
- B. All copies of digital audio/video recordings will be completed by the records division.
- C. If digital BWC video is to be used for criminal prosecution, a copy of the video will be made. This video will be copied onto a storage medium at the request of the investigating officer by SPD technical personnel.
- D. These storage mediums will be marked with the appropriate SPD case number and kept with the case file as submitted by the requesting employee.
- E. When department reports are prepared on an incident that was recorded the officer will note in the text of the report that the BWC system was utilized.

16. Release Of Copies Of (Digital Audio/Video Recordings):

- A. A Public Information Act request form must be submitted before a copy request will be considered by the Salisbury Police Department.
- B. Video disc copies will be made available to defense attorneys and prosecutors while

the original evidentiary video will remain in evidence.com.

- C. Copies requested by law enforcement agencies, authorized prosecuting agents, or judicial entities shall be provided without cost.
- D. Release of evidentiary copies to other individuals or companies will require the written approval of the chief of police. The requesting entity must pay the copying fee directly to the records division during normal business hours. The current City of Salisbury copying rate will apply.
- E. No employee of the Salisbury Police Department will maintain a personal copy of any recorded media whether or not the media is of evidentiary value.

17. Discovery:

- A. Copies of audio/video recordings requested for discovery shall be made available to the prosecutor's office and for the prosecutor to allow viewing by the defendant/defense attorney. Copies will not be furnished to the defendant/defense attorney without the approval of the prosecuting attorney and a commander designated by the chief of police or his/her designee.
- B. In civil cases or infractions where the prosecutor is not involved, the plaintiff, defendant, and/or their attorneys are entitled to discovery. The plaintiff, defendant, and/or their attorneys need to state, in writing, that the audio/video tape is necessary for litigation purposes and submit their request for the audio/video tape to the City Attorney's office.

18. Public Disclosure:

- A. BWC recordings shall not be released for any commercial purpose to include but not limited to television, radio, newspaper, or other media sources without the expressed permission of the chief of police or designee.
- B. Requests for copies of audio/video recordings shall be made in writing to the Salisbury Police Department and will be forwarded to the city attorney's office. The incident, date, time, and case number should be included in the request. If releasable, only the portion of the audio/video recording related to the request shall be duplicated at the direction of the chief of police or his/her designee.