

**WHITE PINE COUNTY SHERIFF'S OFFICE**  
**POLICY AND PROCEDURES**

**Title: Body Camera-Portable Event Recording Device      Policy # 350.100**

**Issued By: Sheriff Scott Henriod**

**Effective Date: 03/09/17**

**Reviewed: 07/01/22**

- I. **Purpose:** The purpose of this policy is to direct deputies and supervisors in the proper use and maintenance of **Portable Event Recording Devices** as well as directing how video will be utilized as a quality control mechanism and evidence.
- II. **Policy:** The policy of the White Pine County Sheriff's Office is to provide deputies with portable event recording devices in an effort to collect evidence to be used in the prosecution of those who violate the law, for deputy's evaluation and training, and to provide accurate documentation of law enforcement and citizen interaction. The use of a **portable event recording device** system provides persuasive documentary evidence and helps defend against civil litigation and allegations of officer misconduct. deputies assigned the use of these devices shall adhere to the operational objectives and protocols outlined herein so as to maximize the effectiveness and utility of the **portable event recording device** and the integrity of evidence and related video documentation.
- III. **Definitions:**
  - A. **"Portable event recording device"** means a device issued to a peace officer by a law enforcement agency to be worn on his or her body and which records both audio and visual events occurring during an encounter with a member of the public while performing his or her duties as a peace officer.
  - B. **"Law enforcement agency"** means:
    - a. The sheriff's office of a county;
    - b. A metropolitan police department;
    - c. A police department of an incorporated city;
    - d. A department, division or municipal court of a city or town that employs marshals;
    - e. The Nevada Highway Patrol.
- IV. **Procedure:** It is the intent of this policy that all deputies who will be using **portable event recording devices** shall be trained on the manner in which the device shall be tested, maintained, used and how the recorded events will be properly documented and maintained as evidence in future judicial proceedings.
  - A. It shall be the responsibility of each individual deputy to test the **portable event recording device** equipment at the beginning of each tour of duty. Deputies equipped with the device will ensure that the batteries are fully charged prior to the beginning of their shift or special event.

In the event that the equipment is found to be functioning improperly, the deputy shall report the problem immediately to their immediate supervisor so that the information can be documented, and arrangements made for repair.

- V. In accordance with NRS 289.830 Uniformed peace officers of this agency who routinely interact with the public shall wear a portable event recording device while on duty. Uniformed deputies assigned Body Worn Video cameras will wear them at all times while on duty in any type of uniform.
  - A. A portable event recording device can only be activated for a law enforcement purpose
  - B. Deputies assigned to non- uniformed investigative duties and undercover investigative assignments are not subject to the provisions of this policy.
  - C. Portable event recording devices will be worn as directed by the manufacturer of the particular device to optimize the video/audio perspective of the device.
  - D. Deputies are authorized to overtly record any law enforcement event when the officer is a party to the conversation.
  - E. Deputies of this agency are prohibited from using privately owned body worn cameras
  - F. Uniformed deputies who are assigned **portable event recording devices** are required to record with audio and video the following incidents:
    - a. Uniformed deputies of the White Pine County Sheriff's Office shall activate their portable event recording device when responding to a call for service or at the initiation of any other law enforcement or investigative encounter between the uniformed peace officer and a member of the public to include:
      - b. All calls for service in which citizen contact is made
      - c. All traffic stops
      - d. All citizen transports (excluding ride a-longs)
      - e. All investigatory stops
      - f. All foot pursuits
      - g. Arrests of any persons
      - h. Searches of any kind
      - i. Seizure of any evidence
      - j. Requests for consent to search
      - k. Miranda warnings and response from in custody suspect
      - l. Statements made by citizens and defendants
      - m. K-9 searches of vehicles
      - n. Issuance of written violations
      - o. Field Sobriety Tests

- p. When arriving at law enforcement events and/or citizen contacts initiated by other officers
  - q. Other incidents the deputy reasonably believes should be recorded for law enforcement purposes
  - r. Deputies are prohibited from deactivating the portable event recording device until the conclusion of the law enforcement or investigative encounter;
  - s. Deputies of the White Pine County Sheriff's Office who fail to operate a portable event recording device in accordance with this policy are subject to disciplinary proceedings.
- G.** Deputies are not required to keep a portable event recording device activated for the entire period of the officer's shift and are prohibited from recording of general activity;
- H.** Deputies will make every reasonable effort to ensure that the portable event recording device is accurately capturing events. A reasonable effort includes:
- a. Activating the video/audio recording as soon as the deputy makes citizen contact or the law enforcement event begins
  - b. Activating the video/audio when the deputy arrives at a street encounter, or citizen contact initiated by another officer
  - c. Positioning and adjusting the BWV to record the event to the extent this can be accomplished without compromising officer safety.
  - d. Deputies shall not erase, alter, modify or tamper with recordings
- I.** The recording shall continue until the law enforcement event or citizen contact is completed and the citizen involved departs or until the officer, who is recording the event discontinues the participation in the law enforcement event.
- J.** If a deputy deems it necessary to stop recording during the event, the deputy will make a verbal statement citing the intentions to stop the recording and the reason.
- K.** A deputy who does not activate a body worn camera in response to a call for assistance shall document in the incident report or otherwise note in the case file or record the reason for not activating the camera.
- L.** When a BWV recording is being entered into the property and evidence storage and management area of the agency the chain of custody log shall include, but need not be limited to:
- a. Case tracking number
  - b. Date recorded
  - c. Date submitted
  - d. Officer submitting the media
  - e. Hold for evidence indication

M. If a deputy assigned BWV equipment, participates in a law enforcement event or citizen contact and becomes aware that the event was not recorded using the BWV equipment, the deputy shall notify the supervisor as soon as practical.

**N. Officer Review of Video Prior to Making Statements:**

a. Deputies shall be allowed to review the audio/visual recordings of an event prior to preparing official reports and documents or answering questions pertaining to the recorded law enforcement encounter.

**VI. Issues Related to Privacy:**

A. The BWC should not be activated when the deputy is on break or otherwise engaged in personal activities or when the deputy is in a location where there is a reasonable expectation of privacy, such as a restroom or locker room.

**B. Protecting the privacy of persons:**

a. In a private residence: When entering a residence, there is a heightened degree and expectation of privacy. Deputies should normally inform the resident that he or she is being recorded.

b. An officer equipped with a body worn camera may choose not to activate a camera or choose to discontinue a recording currently in progress for any non-confrontational encounter with a person, including an interview of a witness or victim or a citizen claiming to be a victim of a crime, or seeking to report a crime, or provide information regarding a crime or ongoing investigation anonymously:

C. For safety and confidentiality reasons, encounters with undercover officers or confidential informants should not be recorded.

D. Undercover contacts or plainclothes contacts are exempt from this policy where utilizing a camera may create a dangerous situation or otherwise diminish the investigative success of the operation.

E. Device activation is limited to situations involving official law enforcement activities authorized by law or court order, including consensual citizen encounters and investigation of law violations.

F. The purposeful-intentional activation of **portable event recording devices** during personal conversations between officers and between officers and supervisors involving counseling, guidance sessions, or personnel evaluations is prohibited by this policy unless all parties present agree to be recorded.

G. In the event of an accidental recording the recording will be maintained in accordance with non-evidentiary recordings and maintained for a minimum of fifteen (15) days. It is the policy of this agency to maintain the recording for ninety (90) days. Deputies are prohibited from erasing any audio or video recordings. If the agency believes accidental recording may constitute an unwarranted invasion of personal privacy, the agency shall request an Open Records Decision by the legal authority in the jurisdiction.

## VII. Recording of Juveniles and Release of Materials.

- a. Access to a person's juvenile crime records is much more restricted than access to adult crime records. Most juvenile crime records are confidential and access will be denied to the public and media. Access to juvenile records is usually only granted to certain persons and organizations such as: Local, state and federal law enforcement, Prosecutors, Court officials, Parents, The juvenile's attorney. Recordings that capture criminal activity involving juvenile offenders will not be released to media or the general public.
- b. No recordings of Juveniles captured through the use of portable event recording devices will be released to the public or the media; this includes but is not limited to images and voice recordings of Juvenile Victims and Juvenile Witnesses.
- c. School Resource Officers (SRO): Students are protected from release of records by the Family Educational Rights and Privacy Act. The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. SRO's that capture video and audio recordings of students during educational and extra-curricular school activities are subject to FERPA.

## VIII. Electronic storage

- A. Tapes or other storage media shall be held in accordance with the state's record retention act for law enforcement records.
- B. In accordance with NRS 289.830 any video recorded by a portable event recording device must be retained by the law enforcement agency for not less than 15 days. It is the policy of the White Pine County Sheriff's Office that non-evidentiary video and audio recordings will be maintained for a minimum of **ninety (90 days)** after their creation.
- C. Original digital files from **portable event recording device** will be downloaded and stored on a designated network server or other electronic storage.
- D. Deputies shall download video/audio files before the end of each shift.
- E. Video/audio recordings determined to be evidentiary in any criminal or civil proceeding shall be copied to DVD or other media and handled in accordance with agency regulations regarding electronic evidence or work product. A back-up copy of the evidentiary Video/Audio recording will be created and maintained in accordance with the procedures outlined for the original recording. Recordings will be maintained until the case is adjudicated and the time for all appeals has been exhausted. If the case is declined for prosecution, the media will be maintained as part of the case file in keeping with laws related to records retention.

- F. The White Pine County Sheriff's Office will maintain a duplicate electronic file of recordings submitted to other agencies for court or other purposes.
  - G. All recording media, recorded images and audio recordings are the property of the White Pine County Sheriff's Office. Dissemination outside the agency is strictly prohibited without specific authorization of the Sheriff or designee.
  - H. Malicious destruction or deletion of video and audio files is prohibited.
  - I. All video and audio files are subject to open records request as allowed by state law. Video recorded by law enforcement is public record unless after a review it is determined that the video meets a valid exception under Nevada Law.
  - J. When release of video footage is in question, the White Pine County Sheriff's Office will seek the assistance of the prosecutor or legal advisor with respect to determining what should and what should not be released.
  - K. Where portions but not all of the video are exempt, the White Pine County Sheriff's Office must redact the exempted portion and release the non-exempt portion of the video.
  - L. Electronic media will be stored in such a way as to maintain the security and integrity of the audio/video recordings.
  - M. Deputies who intentionally manipulate a video recorded by a portable event recording device; or prematurely erase a video recorded by a portable event recording device are subject to disciplinary proceedings.
  - N. No deputy of this agency shall alter, redact, delete, or destroy any original or back up copy of an audio/video recording without approval of the Sheriff or their designee.
  - O. If a recording is used in a disciplinary action resulting in suspension or termination against an employee, the recording shall be held for a minimum of three (3) years from the completion of the disciplinary action.
  - P. Electronic Media is subject to review by the Sheriff or his designees.
  - Q. Video shall not be reproduced for purposes which are outside the scope of authorized uses under this policy without the express authority of the Sheriff or their designee.
  - R. Supervisors should review at least one **portable event recording device** recording every 60 days for each officer supervised for policy, training and legal compliance. After review, the supervisor will document the review and any supervisory actions taken. Supervisors should meet with individual Officers to provide guidance, training and correction when required. Supervisors will initiate formal counseling or internal affairs procedures as the need arises. When corrective action is taken, a special review may be implemented for that particular deputy for a set duration in order to ensure compliance with the corrective action.
- IX. **Public Records:** In accordance with NRS 289.830 any record made by a portable event recording device pursuant to this section is a public record which may be:

- A. Requested only on a per incident basis; and
- B. Available for inspection only at the location where the record is held if the record contains confidential information that may not otherwise be redacted.

**X. BWV Evidentiary/Administrative Procedures:**

- A. When a deputy becomes aware that a BWV recording contains potential evidence of a criminal or administrative matter, the officer is required to ensure the video is uploaded to the network server (or other storage medium) and document such recording via agency report and/or other procedures established by this Office.
- B. When a portable event recording device recording related to evidence of a criminal or administrative matter is created, the captain will ensure the recording is uploaded to the network server and disseminate per agency procedures.
- C. Where there is any indication that a recording may contain "*Brady*" material, that recording must be saved and turned over to the prosecutor assigned to the case in accordance with the "Duty to Disclose" policy of this agency.
- D. Civilians shall not be allowed to review recordings except as approved by the Sheriff or their designee, through the process of evidentiary discovery and/or proper public records request.

**XI. Training:**

- A. This Agency will conduct training on the use of portable event recording devices to deputy and to any other personnel who will come into contact with video and audio data obtained from their use.