

Washtenaw County Sheriff's Office
Procedural Guideline – Mobile Video and Audio Recording Devices
Reference Number: 7.09 PG



Jerry L. Clayton, Sheriff

Subject: Mobile Video and Audio Recording Devices
Chapter: Chapter 7 - Vehicles / Equipment
Status: Revised
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Standards Reference: -
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Issued by: Greg Bazick, Chief Deputy
Issuing Authority: Jerry L. Clayton, Sheriff
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Public Facing: Yes

I. PURPOSE

- A. To provide guidelines for the operation of in-car video, body worn camera, and other mobile device recording equipment.
- B. To provide guidelines for maintaining the evidentiary integrity of recordings generated by these devices.
- C. To capture video and audio recordings of events to assist in providing best evidence for judicial proceedings.
- D. To provide Sheriff's Office employees added protection against false claims of misconduct.
- E. To creating a thorough, reviewable record of field activity and events.
- F. To balance the legitimate operational objectives of the Sheriff's Office and the individual privacy rights of both members of the public and Sheriff's Office employees.
- G. This procedural guideline does not govern the use of surreptitious recording devices used in undercover operations.
- H. BWCs are not intended to subject employees to constant surveillance and this policy does not require law enforcement officers to keep BWCs operational during all working time.
- I. The text of Public Act 85 of 2017, the Law Enforcement Body-Worn Camera Privacy Act is available in PowerDMS through this link: [Law Enforcement Body-Worn Camera Privacy Act](#)

II. SCOPE

- A. This procedural guideline applies to all full-time and part-time Sheriff's Office employees responsible for operating mobile video and audio recording equipment.

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- B. While video and audio recording technologies used by this organization exist as separate physical devices, the intent of their use is the same. Even though there are specific references to one device or another, general concepts regarding the use of digital recording devices apply to all forms of the technology.

III. DEFINITIONS

- A. Body Worn Camera (BWC): A device that is worn by a law enforcement officer that electronically records audio and video of his or her activities. (MCL 780.312(a))
- B. In-Car Video System(s) (ICVS): A video system mounted inside a vehicle.
- C. Electronic Digital Device: Any device other than a BWC or ICVS that has the capability to digitally record audio, video, or capture still images. Current examples include but are not limited to digital recorders (video and audio), smartphones, tablets, and any other portable electronic device with similar capabilities.
- D. Evidentiary Audio and Video Recording: An audio and video recording of an incident or encounter recorded by a body-worn camera, including a crime, arrest, citation, search, use of force incident, or confrontational encounter with a citizen, that may be materially useful for investigative or prosecutorial purposes, including for a criminal and internal investigation. (MCL 780.312(b))
- E. Private place: A place where an individual may reasonably expect to be safe from casual or hostile intrusion or surveillance but does not include a place to which the public or a substantial group of the public has access. (MCL 780.312(c))
- F. Video Buffering (stand-by) Mode: A recording mode whereby a device continuously records *video only* in a continuous loop. This provides a “pre-event buffer” to show what the camera recorded in the moments leading up to an active recording.
- G. Video Active Recording Mode: A recording consisting of video and audio that continues until the device is manually stopped. Active recording is triggered by manually activating the device or automatically when triggered by paired equipment such as vehicle emergency lights, door sensors, speed indicators, activation of a conductive energy weapon, etc.
- H. Evidence.com: An online, web-based digital media storage facility that stores digitally encrypted data (photographs, audio and video recordings) in a highly secure environment. The recordings are accessible to authorized personnel through secure credentials.

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- I. Detailed equipment instructions are available in the reference guides section of PowerDMS.
- J. [Axon Body 2 User Manual](#)
- K. [Axon Body 2 Quick Start Guide](#)

IV. POLICY - GENERAL

- A. It is the policy of the Washtenaw County Office of the Sheriff to utilize in-car video systems, body worn cameras, and electronic digital recording devices for reasons to include but not limited to:
 - 1. Sheriff's Office personnel safety
 - 2. To document conduct of arrestees/violators for evidence
 - 3. To review situations that result in citizen or inmate complaints
 - 4. To provide examples of positive community interaction for use in training to reinforce good skills and behaviors.
- B. Recording devices shall not be used for purposes that are counter to or inconsistent with the Sheriff's Office mission and core values or in ways that are contrary to federal, state, and local law.
- C. Digital files generated from recording devices are considered evidence and will be treated as such.
- D. **All images and sounds recorded** by issued devices (BWCs, Smartphones, digital recorders) or devices approved to purchase by employees with an equipment allowance (e.g. Smartphones, digital recorders) **are the exclusive property of the Sheriff's Office. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.** Axon BWCs allow a Bluetooth connection with Axon Smartphone apps for the purpose of reviewing video, basic categorization and labeling videos, hardware assignment if necessary, and recording audio, video, or still images in the absence of a BWC. Not all personnel are issued a Smartphone. Two of the three apps are authorized for employee use on an authorized personally purchased device such as a non-contract Smartphone dedicated for use with BWCs. These devices are permitted to be purchased with uniform/equipment allowances.
 - 1. Contact an Axon device administrator for recommendations if deciding to purchase a device for the exclusive use described above. Currently the Chief Deputy and Quartermaster are the lead Axon device administrators.
- E. Personnel will not make copies of any video or audio recording for personal use and are prohibited from using a recording device, such as a Smartphone camera or secondary video camera, to record media

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- from a BWC, ICVS, or Evidence.com. For example, it is prohibited to play back a recording and while viewing it record the playback with a second recording device.
- F. Deliberate recording of confidential informants or undercover officers is prohibited.
 - G. Intentionally activating a recording device to record conversations of fellow employees without their knowledge during routine, nonenforcement related activities is prohibited.
 - H. Intentionally recording while on break/lunch or in a location where there is reasonable expectation of privacy, such as a restroom or locker room is generally prohibited. There may be circumstances in public facilities where a Deputy deems it necessary to intentionally, actively record in these locations.
 - I. Only personnel who have completed approved training are permitted to operate approved devices unless otherwise directed by a supervisor. Under these circumstances the supervisors bears the responsibility to ensure any digital evidence captured by the device is properly managed and accounted for.
 - J. BWCs may be assigned individually to Deputies and Corrections Officers or they may be assigned on an as-needed basis for particular assignments.
 - K. Use of privately owned recording devices of any kind is expressly prohibited except as permitted above. A personal cell phone may be used to pair with a BWC with the Axon view app because it is not creating a recording and therefore is not a recording device.
 - L. Personal use of Sheriff's Office owned BWC or ICVS equipment either on or off duty is prohibited.
 - M. Personnel issued a BWC or assigned a vehicle equipped with an ICVS will inspect the system for any physical damage and to ensure the device is in working order at the beginning of their shift. Any problems will be reported immediately to their supervisor.
 - N. Personnel will immediately report to their direct supervisor any loss of, or damage to, any part of a recording system.
 - O. Any person who intentionally disables or damages any part of a recording system or who fails to activate or deactivate the system when required by this policy without a legitimate, justifiable reason is subject to corrective action.
 - P. Command will ensure that employees assigned BWCs or to vehicles equipped with ICVS utilize them in accordance with policy and procedures defined herein and Sheriff's Office professional standards.

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V. NOTIFICATION OF ACTIVE RECORDING

- A. Personnel are **not generally required to inform** people they come into contact while performing their official duties that an active recording is occurring with a BWC, ICVS, or another electronic digital device. However, the mere knowledge that one's actions are being recorded is often enough to encourage civil behavior and may prevent conflict or deescalate a situation that is tense upon arrival of Sheriff's Office personnel. For this reason, **it is encouraged to inform others present that the interaction is being actively recorded.**
- B. Special consideration must be given to provide notice of active video recording when interacting with a victim of sexual assault during the initial investigatory contact. Unlike ICVS or audio recorders, BWC or digital devices with video recording capabilities may capture visually graphic imagery. BWCs may also record the interior layout and furnishings of private locations such as homes, medical facilities, and non-public areas of private businesses.
- C. Because sexual assault is a particularly invasive crime and there are limitations to a law enforcement organization's ability to protect the privacy and dignity of victims from release of BWC video footage requests through FOIA and the discovery process of criminal proceedings, **sexual assault victims should be notified as soon as practical that their interaction is being recorded by a BWC.** The victim should also be asked if they wish to proceed with the interaction being recorded or if they would like to proceed without recording.
 - 1. If the victim requests the recording be discontinued, verbally narrate that the recording is being discontinued as the victim's request prior to stopping the active recording.
 - 2. The BWC should remain in stand-by mode for the remainder of the interaction.
 - 3. There may be unique situations where a responding Deputy experiences factors that lead them to conclude based on their experience and training that it is in the best interest of the initial investigation to continue to actively record the interaction. These circumstances should be the exception, not the rule. Circumstances like this must be thoroughly documented in written case reports with the rationale for continued recording explained.

VI. NOTEWORTHY POINTS REGARDING BODY WORN CAMERAS

- A. BWCs have been demonstrated to reduce use of force interactions as well as reduce complaints against law enforcement employees. When

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used properly they enhance openness and help to foster positive community relations.

- B. BWCs allow for accurate documentation of law enforcement -public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of law enforcement employees' reports and testimony in court.
- C. Audio and video recordings enhance the ability of the Sheriff's Office to more completely review probable cause for arrest, law enforcement employee /citizen interactions and to obtain evidence for investigative and prosecutorial purposes. BWCs also provide additional information for employee evaluation and training.
- D. BWCs may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.
- E. When evaluating the unique perspective of a BWC, the following **limitations of video** must be considered:
 - 1. The BWC is mounted to the torso and does not follow the positioning of the eyes. Therefore, the recording may not capture what the person wearing the BWC is looking at in any given moment.
 - 2. Some danger cues are experienced through senses other than vision and therefore cannot be visually recorded.
 - 3. BWC recordings cannot provide direct evidence of the operating officer's experience.
 - 4. BWC recording speed and human reaction time differ significantly.
 - 5. BWC recordings when played back on a computer screen or monitor may be visually distorted and the images it may capture may appear differently than would be perceived by the human eye.
 - 6. BWCs do not provide any non-visual information that may be detectable to other human senses.
 - 7. BWCs cannot record perceptual distortion and/or other normal reactions to stress.

VII. BWC AND ICVS USE PROCEDURE

- A. Limitations of battery life and electronic storage prevent continuous active recording throughout an entire shift.
- B. Within the scope of these limitations, BWCs and ICVS should be actively recording throughout as much of the shift as is practical. **It is**

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better to have video of an interaction than not. While video recordings will never answer every question about what occurred during an interaction, they provide more objective information for review than written reports or audio only recordings alone.

- C. Actively record the initial response to and arrival at a call for service. Each event is unpredictable. Having recording systems active prior to arrival will help ensure recording events as they evolve and will capture spontaneous statements and impressions. Once the scene of a call for service is stable if it becomes an extended investigation it may be prudent to switch the camera from active recording mode back to buffering mode. If this occurs narrate the reason for changing modes before stopping active recording.
- D. BWCs must be switched to active record mode prior to arriving at a call for service whether responding by vehicle or foot so that the beginning of the interaction is recorded. Early activation also prevents the need to think about turning on active record mode during stressful conditions or during an escalating event when it is crucial to focus on safety and tactics.
- E. BWCs must remain activated until the event is completed to ensure the integrity of the recording unless otherwise restricted by this procedural guideline.
- F. If it is decided that it is necessary to stop the BWC recording within constraints of this procedural guideline, **narrate the intent to stop and the reason to stop recording before stopping the device.** Upon reactivation of the camera, narrate that it was restarted. This action and the reasoning for it must be documented in an incident report.
 - 1. BWCs shall be activated to record all calls for service and during all enforcement-related encounters and activities unless activating the BWC would be unsafe, impossible, or impractical. **When in doubt, the camera must be activated.** Typical law enforcement or corrections related encounters include, but are not limited to:
 - 2. Traffic stops
 - 3. Arrest or court remand situations
 - 4. Searches
 - 5. Investigative citizen contacts
 - 6. Pursuits
 - 7. Interviews conducted away from the vehicle
 - 8. Any encounter with the public that becomes adversarial

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9. Transporting arrestees or inmates outside of the jail proper, to include those secured areas of the courthouse not accessible to the public
 10. Searching subjects remanded or otherwise taken into custody by employees assigned as inmate transport, bailiffs, or court security prior to placing them into a holding cell.
 11. Cell extractions
 12. Use of the Emergency Restraint Chair
 13. Critical jail incidents (i.e. uncooperative/unruly inmate)
- G. Deputies must utilize the ICVS when engaged in the following activities:
1. Complaint investigations
 2. Traffic stops
 3. Pursuits
 4. During complainant, victim, witness interviews
 5. Contact with suspected criminal violators or suspicious persons
 6. Field interrogations
 7. Transportation of prisoners
 8. Anytime the vehicle is in motion and any emergency lights or siren are activated
 9. Reserve details
 10. Disturbances such as strikes or protests
 11. Other official contacts with the public
- H. **When in doubt, actively record.**
- I. When writing case reports, **document in the narrative when active BWC recordings are made.** The Prosecutor's Office looks for this information when reviewing a case to make a charging decision. The reference in the report helps to ensure that all relevant information is gathered for purposes of discovery.
- J. Audio or video recordings from any device are not a replacement for written narrative in reports. It is not acceptable to make a reference in a report to the effect of "see video or audio for details" in lieu of articulating what occurred in writing. It is permissible to summarize what occurred and make reference to view the video for further details but there must at least be a written summary of what occurred.
- K. If a BWC is not activated or fails to activate when it should:

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1. Notify command before the end of the shift.
 2. If the BWC was deliberately not activated, a supervisor will follow up with the employee and discuss the factors that went into the decision.
 3. If the failed activation appears to be a malfunction of the equipment, forward the BWC to the Quartermaster for return to the manufacturer for repair or replacement.
- L. If an unintentional activation of the BCW occurs during a non-enforcement or non-investigative activity, including but not limited to; restrooms, meal breaks, locker rooms, or other areas where a reasonable expectation of privacy exists, you may submit a request, via the chain of command, the recording be made inaccessible.

VIII. BWC WEAR

- A. Once trained, uniformed personnel are required to wear a BWC as part of their uniform unless otherwise authorized by command. If this occurs, the command officer approving the exception will document the circumstances and rationale for their decision by sending an email to their immediate supervisor and Division Commander.
- B. Instances and reasons for supervisory overrides may be reviewed by the Division Commander or designee to ensure consistent application of policy as well as help to identify circumstances which may justify policy modification.
- C. BWCs shall be worn on the body, uniform, or clothing in a manner that maximizes the camera's ability to record events, interactions, etc.
- D. The BWC will typically be deployed on or near the operating Deputy's chest or torso.
- E. Detectives and personnel assigned to plain clothes investigative assignments (CAT, DEA, DFAT, etc.) are not required to wear a BWC at all times while on duty. BWCs are another tool that should be readily available in case it is needed or advantageous to use during an investigation. **BWCs should be worn by investigative personnel while executing search warrants.**

IX. EQUIPMENT MAINTENANCE

- A. BWCs and associated equipment such as mounts, charging/transfer cables, and individual docking stations are the responsibility of person to whom it is assigned. Reasonable care is expected to ensure proper equipment functioning and longevity.

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- B. Those issued or authorized to use a BWC are responsible for maintaining and determining the operational readiness of the equipment.
- C. Operational readiness is determined by regular system testing to verify functionality.
- D. Additional testing will be performed if a unit is dropped, exposed to significant moisture, etc.
- E. Before each shift, those issued a BWC shall inspect and test it to verify the equipment is fully charged and working properly.

X. UPLOADING RECORDINGS

- A. Docking stations are the primary means to charge, upload video, and receive occasional upgrades. BWC firmware/software cannot be upgraded unless the device is attached to a docking station and BWCs will accordingly be attached to docking stations as frequently as possible.
- B. At the end of every shift, BWCs will be returned to the assigned docking station for charging, video upload, upgrades, and storage prior to the next shift.
- C. If a BWC needs charging prior to the end of a shift, the BWC will be charged using the USB cable in vehicle. Charging in the vehicle may also be necessary if a shift is extended.
- D. The USB cable may also be used to upload video to evidence.com through Axon Evidence Sync software. This feature is beneficial if access to a dock is unavailable or if available docks are not functioning properly due to hardware malfunction or a network outage. Taser Sync from a vehicle uses a cellular connection as opposed to a hardwired one.
- E. ICVSS upload wirelessly when in proximity of a wireless access point (WAP). WAPs are located throughout the County at substations.

XI. MANDATORY RECORDING SYSTEM FIELDS

- A. At a minimum, all BWC and ICVS recordings must be categorized. Categories determine the length of retention on evidence.com.
- B. For BWCs, the ID field must contain a case number or citation number.
- C. For BWCs, the title field should include a description of the event by case type, call for service type, or suspect name.
- D. The Category, ID, and Title fields may all be completed prior to upload from the Axon View app on a paired Smartphone or the Sync app on

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an in-car computer. After upload these can only be modified in evidence.com.

- E. Another field that is equally useful for searching and more flexible than the category field is the “Tags” field. This is accessible in evidence.com after video has been uploaded. The Tags filed should be used for as many key words, names, or phrases that may be useful to narrow down records returned when searching evidence.com. Tags do not affect the retention duration of a video stored on evidence.com.
- F. Command Officers, once trained on the features and navigation of the video system repository (Evidence.com - BWC or L3 Mobile Vision – ICVS), are responsible to ensure policy compliance of personnel under their areas of responsibility in regards to mandatory system fields.

XII. RECORDING RETENTION DURATION / FOIA REQUESTS

- A. Public Act 85 of 2017, [Law Enforcement Body-Worn Camera Privacy Act](#), requires a minimum retention duration (from the date of recording) of 30 days for evidentiary audio and video recordings and 3 years if the recording is relevant to formal complaint against a law enforcement officer or agency.
- B. Except for the categories for accidental activation, equipment tests, and training recordings, all BWC categories are set for a minimum retention period in evidence.com of 3 years and 3 months. Other categories with longer retention durations may be created for major cases, use of force reviews, etc. If necessary digital evidence may be downloaded to removeable media such as DVDs, USB drives, etc. for filing in property as evidence or inclusion in a hard copy case file. Downloads require supervisory approval.
- C. Axon categories and a description for the use of each is maintained in PowerDMS under the “Reference Guides” section. This hyperlink leads to the document: [Axon BWC Categories](#).
- D. All FOIA requests for BWC and ICVS recordings will be handled in compliance with the [Michigan Freedom of Information Act](#) and [Law Enforcement Body-Worn Camera Privacy Act](#). Any questions about release must be directed to County Risk Management through the Sheriff's Office Records Section.

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XIII. VIEWING RECORDINGS

- A. Recordings shall only be viewed in furtherance of a legitimate agency function. Any other review will require the approval of an employee's immediate supervisor. When in doubt, if a situation is not time sensitive, contact the Division Commander or Chief Deputy for guidance. Not every conceivable situation can be reasonably covered by policy.
- B. Personnel are permitted and encouraged to review their own BWC video prior to submitting the final version of their reports for supervisory review and approval.
- C. Citizens may be allowed to review a recording only under extenuating circumstances and with approval from a supervisor.
 - 1. The reason for this constraint is because without redaction in advance, it is possible that a citizen may see video content that would have otherwise been redacted or denied release if the video would have been managed through the FOIA process.
 - 2. Examples where a Citizen may be allowed to view a recording include but are not limited to:
 - a) Hot or fresh pursuit calls for service where assistance in identifying and individual to ensure public safety can be articulated.
 - b) Reviewing an interaction with a citizen who perceives they were treated in an unprofessional manner where the video can provide an objective perspective of the event. This example will almost always be used exclusively by a supervisor.
- D. If a supervisor is not able to be contacted during an extenuating circumstance the Deputy allowing citizen review of a recording must notify a supervisor as soon as practical before the end of shift. An email will suffice if that is the best way to make timely supervisory notification.
- E. Digital recordings will be randomly reviewed by supervisors for a variety of reasons. Examples include, but are not limited to: performance reviews, training, early intervention inquiries, civil claims or administrative inquiry.
- F. Viewing rights and/or copies of recordings are authorized only for official Sheriff's Office business, Freedom of Information requests, or as otherwise required by law.

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- G. In no event, shall any digital recording be used or shown for the purpose of ridicule, embarrassment, or any type of personal use or gain.

XIV. DISCRETION AND RESTRICTIONS

- A. Any person who intentionally disables or damages any part of a recording system or who fails to activate or deactivate the system when required by this policy without a legitimate, justifiable reason is subject to corrective action.
- B. There is **discretion to record** while on break/lunch in a public location if circumstances arise where you reasonably believe the situation could turn into a call for service or enforcement situation.
- C. There is **discretion to record** informal, non-law enforcement related interactions with members of the community. Such non-law enforcement related interactions may include, but are not limited to:
1. Person seeking directions.
 2. Casual conversations with people they encounter on while on duty.
- D. There is **discretion to not record** certain law enforcement related encounters. For example:
1. A community member spontaneously approaches you to report a crime or share information.
 2. Speaking with a confidential informant.
 3. To protect a person's identity under circumstances that create a high potential for retaliation against a community member, or otherwise inhibits the ability to investigate.
 4. Extended investigations that would exceed the recording capabilities of the BWC or ICVS or once the scene is secure.
 5. In a private residence, there is a heightened degree and expectation of privacy. If you are present at the address for a reason other than a call for service or enforcement-related encounters or activities and the resident wishes not to be recorded, this request will be documented by narrating the request before the BWC is turned off.
 6. Disturbances where the marked police units are merely used for transportation to a parking/staging area and will not be used by officers during the incident.
 7. Officers assigned to station duty that only temporarily use a vehicle for non-patrol purposes such as errands, transport for repairs, etc.

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8. Officers picking up or dropping off another officer or delivering equipment or supplies for road patrol officers.
9. Inside any Sheriff station or other police facility.

XV. BWCS IN SCHOOLS

- A. In any public, private, or parochial elementary or secondary school, BWCs should not be activated except for the following exceptions:
 1. During times when all parties being visually or audibly recorded are in a private room and consent to the recording.
 2. While making an arrest.
 3. While controlling a person through response or resistance techniques.
 4. Other extraordinary circumstances where a video recording of the incident would assist in providing context for the involvement of Sheriff's personnel in a particular situation.

XVI. BWCS IN MEDICAL CARE FACILITIES

- A. In medical care facilities, there is a heightened degree and expectation of privacy, particularly in assessment and treatment areas. Recording should be avoided except for cases in which it is necessary to capture specific enforcement-related activities, pieces of evidence, or statements.

XVII. BWCS IN COURTROOMS

- A. Judges and Magistrates within Washtenaw County have been informed of the deployment of BWCs and have been provided an overview of how the devices function.
- B. It is up to each Courtroom Official to determine whether they will allow active recording within their courtroom. Generally speaking, most are supportive of BWC use within the courtroom in standby mode because no audio is captured in that mode. ICVS audio is always prohibited. If a BWC is put into active recording mode due to response to a courtroom for a disturbance (CFS), self-initiated activation due to anticipation of a disturbance, or an accidental activation, the recording must be categorized with the additional category "Courtroom Activation". The activation must be reported to a supervisor also so that follow-up with the Courtroom Official occurs. The Courts are very sensitive to video and audio footage that may capture images of juries or protected conversations between attorneys and clients.

XVIII. SIGNIFICANT EVENT RECORDING – COMMAND RESPONSIBILITY

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- A. If an employee is involved in a serious incident the command officer in charge of the incident will immediately take possession of the BWC and ensure the video is uploaded to evidence.com.
 - B. Examples of significant events include, but are not limited to:
 - 1. An Officer-involved shooting.
 - 2. An in-custody death or serious injury of a person.
 - 3. An injury to the employee that renders them incapable for downloading the data.

XIX. VIDEOS FOR USE IN TRAINING

- A. It is encouraged to inform a supervisor or the Training Manager of any recordings that may be of value for training purposes. The determination of whether a recording will be made for training purposes lies with the Divisional Commander, Chief Deputy, Undersheriff, or Sheriff. Requests of this nature will be forwarded for consideration through chain of command.

XX. MODIFICATION

- A. The Sheriff, Under Sheriff, Chief Deputy, or Division Commander may modify the provisions of this procedural guideline.

XXI. COMPLIANCE

- A. All employees shall comply with all provisions of this procedural guideline. A violation of any section is a Class 2 offense and may result in corrective discipline.
- B. A violation may also be a violation of other Sheriff's Office professional conduct standards which may result in corrective disciplinary action up to and including discharge.