

Body Worn Cameras

424.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of Body Worn Camera Systems (BWCS) worn by members of this department while in the performance of their duties.

This policy does not apply to mobile audio/video recordings (in-car cameras), interviews or interrogations conducted at any Lawrence Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

424.2 POLICY

The Lawrence Police Department may provide sworn members with access to BWCS, for use during the performance of their duties. The use of a BWCS is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public. These recordings may serve as evidence in administrative, criminal, or civil cases.

424.3 INFORMATION SERVICES DIVISION COMMANDER RESPONSIBILITIES

The Information Services Division Commander or authorized designee will be responsible for ensuring this policy is compliant with and modified as needed with technology changes and legislative or other legal updates.

424.3.1 BWCS COORDINATOR

The BWCS coordinator will be assigned to the IT Division. The coordinator will be responsible for:

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.

424.4 MEMBER PRIVACY EXPECTATION

All BWCS recordings made by members of this department shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

424.5 MEMBER RESPONSIBILITIES

All sworn members may be issued a BWCS and mounting equipment.

Prior to going into service, any member assigned to the Patrol Division or a special detail (i.e. off-duty security, parade detail) or in any other circumstance the member believes that such a device could be useful, will be responsible for making sure that he/she is equipped with a BWCS and mounting equipment. Members will ensure the recorder is in good working order and charged. If the BWCS is not in working order, charged, or if the member becomes aware of a malfunction at

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any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. The BWCS should be worn in a conspicuous manner, unless conducting a lawful recording in an authorized undercover capacity, and positioned as to not intentionally block the recording field of view of the BWCS.

424.6 ACTIVATION OF THE BWCS

This policy is not intended to describe every possible situation in which the BWCS should be used, although members should activate the BWCS any time the member believes it would be appropriate or valuable to record an incident. Members are encouraged to activate their BWCS while enroute to the call location, but shall have the BWCS recording activated prior to arrival.

Members shall activate their BWCS for any of the following situations:

- (a) All calls for service received from Dispatch
- (b) All enforcement and investigative contacts including but not limited to pedestrian stops, consent contacts, and field interview situations
- (c) Traffic stops including but not limited to traffic violations, stranded motorist assistance, and all crime interdiction stops
- (d) Self-initiated activity in which an officer would normally notify Dispatch, except for administrative calls or breaks from service. (i.e. meal periods)
- (e) Any other contact that becomes adversarial after the initial contact when the situation would not otherwise require recording. Such as being contacted by an individual while performing foot patrol in a neighborhood.
- (f) When assisting other law enforcement or governmental agencies that are engaged in official law enforcement activities
- (g) While on school property or during school related events, members should only record law enforcement actions.

Members have the right to record encounters with the public if they have the right to be at, or in, the location (i.e. call for service). Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing the recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. (i.e. reports of sexual assaults or sensitive medical information)

Although there may be circumstances when it would be advantageous for a member to announce the BWCS is actively recording, no member shall be required to inform an individual of the public that they are being recorded. Likewise, members are not required to turn off the BWCS when requested by an individual, unless the individual wishes to submit an anonymous tip, in which the decision to record the conversation is at the discretion of the member. Recordings should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a BWCS. In any situation described above that occurs suddenly or where safety concerns prevent the immediate

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activation of the BWCS, members should activate the recording as soon as reasonably practicable and when safe to do so.

424.6.1 CESSATION OF RECORDING

Once activated, the BWCS should continuously record until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. However, there may be circumstances where members may need to stop or pause the recording while on-scene and in direct participation. Members should reactivate the BWCS recording when the need for pausing or stopping the recording no longer outweighs the value of having the recording active.

Members may mute the BWCS to discuss issues or concerns with other members on scene. As soon as the conversation is completed, the members should continue normal recording on the BWCS. Any BWCS that is activated due to the discharge of a firearm, whether or not it causes serious injury or death to another person shall remain activated. This does not include firearms training or qualifications, or the shooting of an injured/dying animal. Once the involved member(s) is removed from the immediate scene, and placed into a non-involved police vehicle or ambulance, the BWCS may be turned off by a supervisor or authorized designee.

424.7 PROHIBITED USE OF BWCS

Members are prohibited from using BWCS recordings for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in an official capacity without approval from the Chief of Police or authorized designee. Members shall not post any BWCS recording to any website, including social media website without the approval from the Chief of Police or authorized designee.

Members shall not duplicate, release, disseminate, edit, or delete any recordings, except for authorized legitimate department business purposes without the approval from the Chief of Police or authorized designee, or based on a court order or properly served subpoena. All recordings shall be retained at the Department.

Members are prohibited from using personally owned BWCS devices while on-duty.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

Members shall not record communications with other department members during administrative interviews without the knowledge of all persons present. See department policy 908 Personnel Complaints.

Members shall not intentionally record any non-duty related activities, including:

- (a) Communications with any department member without the department member knowing, or without a court order.
- (b) Encounters between undercover members or known informants as defined in the Informant Policy.

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- (c) While on break or otherwise engaged in personal activities, personal conversations, in restrooms, dressing rooms and/or locker rooms, unless it is for a legitimate law enforcement purpose
- (d) Court room testimony
- (e) During administrative activities

424.7.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Kansas law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (K.S.A. § 21-6101).

Members may surreptitiously, or covertly, record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

424.7.2 EXPLOSIVE DEVICE

BWCS emit radio waves that could trigger an explosive device. Therefore, these devices should not be activated where an explosive device may be present.

424.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members shall upload the recording, classify the recording appropriately, and enter the associated incident number or when applicable, the citation number. Members should document the existence of the recording in any related incident report and/or citation or other official record of the contact. Likewise, members equipped with a BWCS should note in the related incident report and/or citation the reason a recording was de-activated, not made or if the recorder malfunctioned.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should properly classify the recording for retention purposes.

424.9 CONTROL AND RETENTION OF RECORDINGS

Unless otherwise approved by a supervisor, members shall ensure the BWCS is placed in a docking station for the recordings to begin the transfer process prior to the end of their shift.

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule. Recordings that are deemed to not have evidentiary value and do not fall into one of the following circumstances will be deleted after ninety (90) days.

- (a) Any death investigation, homicide, or crimes involving terrorism and weapons of mass destruction will be maintained indefinitely
- (b) Any aggravated sodomy, rape, or other sexually violent crime as defined by K.S.A. § 22-3717 will be maintained indefinitely
- (c) Any other felony or misdemeanor will be maintained for a period of five (5) years
- (d) A citizen complaint against members will be maintained for a period of three (3) years

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- (e) Any use of force incident, as defined in the Use of Force Policy, will be maintained for a period of seven (7) years
- (f) Recordings associated with a traffic accident (no criminal charges) will be maintained for a period of two (2) years
- (g) Recordings related to an internal administrative investigation will be maintained for the duration of the employee's tenure at this department. The recording will be maintained for a period of five (5) years after the employee's separation
- (h) Recordings associated with a traffic citation, will be maintained for a period of one (1) year

424.9.1 RELEASE OF BWCS RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with K.S.A. § 45-254 and the Records Maintenance and Release Policy.

Prior to the release and disclosure of a recording, or any portion thereof, to the public when deemed necessary to further a legitimate law enforcement purpose, the City Attorney or authorized designee shall be consulted in the review of the request to ensure it is in accordance with all applicable state and/or federal laws.

All video recordings should be reviewed by the Records Manager or custodian assigned prior to public release (see the Records Maintenance and Release Policy). Video that unreasonably violates a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

424.10 REVIEW OF BWCS RECORDINGS

As with any evidence, members may review BWCS recordings when preparing written reports, conducting an investigation, preparing for court testimony, or for administrative needs. Members shall only access their BWCS recordings or those that they have a legitimate purpose to review. However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review BWCS recordings for specific situations, including but not limited to:

- (a) Investigating alleged misconduct or citizen complaints
- (b) Circumstances involving the use of force
- (c) Circumstances involving a vehicle pursuit, high risk traffic stop, and/or foot pursuit
- (d) Whenever such recordings would be beneficial in reviewing a member's performance
- (e) Reports of meritorious conduct
- (f) To identify potential training opportunities

Recordings may also be reviewed:

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- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By Department media personnel with permission of the Chief of Police or the authorized designee.

The Chief of Police or authorized designee may authorize other members to view recordings, other than their own, for purposes related to dissemination, training, or other department approved purposes. Such individuals and/or groups include, but are not limited to:

- (a) Use of Force Review Board
- (b) Accident Review Committee
- (c) Community Police Review Board as authorized by Chapter 1, Article 25 of the City Code.

424.10.1 REQUESTS TO REVIEW RECORDINGS

Requests to review recordings made by BWCS shall be processed in accordance with K.S.A. § 45-254 and the Records Maintenance and Release Policy.

424.11 TRAINING

Training on the use of BWCS shall be provided to members prior to issuance and wearing of the device. The training, at a minimum, should cover this policy, and address operating procedures including activation, deactivation, proper mounting, and docking of the BWCS.

Records Maintenance and Release

803.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

803.2 POLICY

The Lawrence Police Department is committed to providing public access to records in a manner that is consistent with the Kansas Open Records Act (K.S.A. § 45-215 et seq.).

803.3 CUSTODIAN OF RECORDS

The Chief of Police shall designate a Custodian of Records (Records Manager). The Records Manager is the official custodian pursuant to K.S.A. § 45-217. The responsibilities of the Records Manager or the designee include, but are not limited to:

- (a) Managing the records management system for the Department, including the retention, archiving, release and destruction of department public records.
- (b) Maintaining and updating the department records retention schedule, including:
 1. Identifying the minimum length of time the Department must keep records.
 2. Identifying the department division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records as provided by K.S.A. § 45-220.
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring the availability of a current schedule of fees for public records as allowed by law (K.S.A. § 45-218; K.S.A. § 45-219).
- (g) Ensuring a brochure on public records is available to the public that contains a description of the basic rights of a person who requests public information, the responsibilities of the Department, and the procedures and costs for inspecting or obtaining a copy of the public record (K.S.A. § 45-227).
- (h) Developing and maintaining reasonable written procedures and practices to protect personal information, as defined by K.S.A. § 50-7a01, from unauthorized access, use, modification or disclosure. Procedures should include how members are to be trained to protect personal information (K.S.A. § 50-6,139b).

803.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for any record shall route the request to the Records Manager or the authorized designee. If the Records Manager determines the requester

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is not the custodian of the requested record, the requester shall be notified and provided the name and location of the custodian of the public record, if known or readily ascertainable (K.S.A. § 45-218).

803.4.1 REQUESTS FOR RECORDS

The processing of requests for any record is subject to the following (K.S.A. § 45-218; K.S.A. § 45-219):

- (a) All requests for records shall be made in writing.
- (b) The Department is not required to create records that do not exist.
- (c) Copies of radio or recording tapes or discs, video tapes or films, pictures, slides, graphics, illustrations or similar audio or visual items or devices shall not be required unless approved by the Records Manager or supported by an approved subpoena or court, or unless such items were shown or played at a public meeting.
 1. If a record is copyrighted by a person other than the Department, the record shall not be copied.
- (d) Requesters shall not make copies of public records electronically by inserting, connecting or otherwise attaching an electronic device to any computer or other electronic device of the Department.
- (e) When a record contains both material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released (K.S.A. § 45-221(d)).
 - (a) A notation should be made in the case file to document the release and the reasons for the redacted portions.
- (f) Each request for a record shall be acted upon as soon as possible, but no later than the end of the third business day after receipt of the request.
- (g) If access to a record request is not granted immediately, the requester shall be provided an explanation of the cause for the delay and notified of the place and approximate earliest time and date the record will be available for inspection.
- (h) Payment of any associated fees is required prior to the release of records.

803.4.2 DENIALS

When a record request is denied, the requester shall be provided a written statement of the grounds for denial, when the final response to the request is given, by the third business day or at the end of the designated period of delay. Only upon request, shall the statement include the citation to the specific provision of law that denies access (K.S.A. § 45-218).

The Records Manager may refuse to provide access to a public record or to permit inspection if the request places an unreasonable burden on the Department to produce the records or there is reason to believe repeated requests are intended to disrupt other essential department functions. A refusal must be supported by a preponderance of evidence (K.S.A. § 45-218) or as outlined in the Kansas Open Records Act.

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803.5 RELEASE RESTRICTIONS

Examples of release restrictions include but are not limited to (K.S.A. § 45-221):

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification number; name, address, and telephone number; and medical or disability information that is contained in any driver's license record, motor vehicle record, or any department record, including traffic crash reports is restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722; K.S.A. § 75-3520).
- (b) Personnel records, performance ratings, or individually identifiable records pertaining to members or applicants for employment, except for names, positions, salaries, or actual compensation employment contracts/agreements and length of service.
 - 1. Unless an exception applies (under a binding settlement agreement), [officer/ deputy] files requested pursuant to a written waiver must be released within 21 days (K.S.A. § 75-4379).
- (c) Information that would reveal the identity of an undercover agent or informant reporting a specific violation of law.
- (d) Records that represent the work product of an attorney.
- (e) Records of emergency or security information or procedures of the Department if disclosure would jeopardize public safety (K.S.A. § 45-221).
- (f) Information that would reveal the location of a shelter, safe house, or similar place where persons are provided protection from abuse, or the name, address, location, or other contact information of alleged victims of stalking, domestic violence, or sexual assault.
- (g) Victim information (K.S.A. § 38-2310).
- (h) Records related to children in need of care (K.S.A. § 38-2213).
- (i) Records that would reveal the location of a victim of domestic violence, sexual assault, human trafficking, or stalking who is enrolled in the Kansas Secretary of State's Safe at Home (SaH) Address Confidentiality Program (K.S.A. § 75-451).
- (j) Juvenile law enforcement records (K.S.A. § 38-2310).
- (k) Criminal investigation records, including audio or video recordings taken with body-worn or in-car cameras, unless ordered by a court or allowed for by K.S.A. § 45-254.
- (l) Records that are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.
- (m) Records containing information of a personal nature where the public disclosure would constitute a clearly unwarranted invasion of personal privacy.
- (n) An individual's email address, cellular telephone number, and other contact information that has been given to the Department for the purpose of department notifications or communications that are widely distributed to the public.

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- (o) Records that would disclose the name, home address, zip code, email address, telephone number, or cellular telephone number, or other contact information for any person who is licensed to carry concealed handguns, has enrolled in or completed any weapons training in order to be licensed, or has made application for such license under the Personal and Family Protection Act, unless allowed by law.
- (p) Recordings or statements made during a custodial interrogation related to a homicide or felony sex offense (K.S.A. § 22-4620).
- (q) Any other information that may be appropriately denied by K.S.A. § 45-221 and Kansas law.

803.5.1 REQUIRED RELEASE

Upon request, the Records Manager shall allow the following individuals, by appointment, to review recordings captured by a body-worn device or in-car camera (K.S.A. § 45-254):

- (a) A person who is a subject of the recording.
- (b) A parent or legal guardian of a person under 18 who is a subject of the recording.
- (c) The attorney for a subject of the recording.
- (d) An heir at law, an executor or an administrator of a decedent, when the decedent is a subject of the recording.

803.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena of non-business records, a subpoena duces tecum or discovery request for records should promptly contact a supervisor, and forward the request to the Records Manager for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney or City Attorney.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

803.7 RELEASED RECORDS TO BE MARKED

All records released pursuant to this policy should be noted in a dissemination log, identifying the incident number, date and time of release, and to whom the record was released.

803.8 SECURITY BREACHES

Members who become aware that any Lawrence Police Department system containing personal information may have been breached should notify the Records Manager as soon as practicable.

The Department shall conduct a prompt investigation to determine the likelihood that personal information has been or will be misused (K.S.A. § 50-7a02).

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The Department shall ensure the required notice is given to any resident of this state whose unsecured personal information is reasonably believed to have been misused or where there is a reasonable likelihood that the information will be misused (K.S.A. § 50-7a02).

Notice shall be given in the most expedient time possible and without unreasonable delay consistent with the legitimate needs of the Lawrence Police Department and consistent with any measures necessary to determine the scope of the breach or to restore the reasonable integrity of the agency data system. Notice may be delayed if notification will impede a criminal investigation (K.S.A. § 50-7a02).

For the purposes of the notice requirement, personal information includes an individual's first name or first initial and last name in combination with any one or more of the following (K.S.A. § 50-7a01):

- (a) Social Security number
- (b) Driver's license number or Kansas identification card number
- (c) Full account number, credit or debit card number, or any required security code, access code, or password that would permit access to an individual's financial account

If the breach reasonably appears to have been made to protected information covered in the Protected Information Policy, the Records Manager should promptly notify the appropriate member designated to oversee the security of protected information (see the Protected Information Policy).

803.9 EXPUNGEMENT

Expungement orders received by the Department shall be reviewed for appropriate action by the Records Manager.