

TOMPKINS COUNTY SHERIFF’S OFFICE GENERAL ORDER



EFFECTIVE DATE / / 2015	SUBJECT Body-Worn Cameras		GO-XYZ
ISSUED BY: Kenneth W. Lansing Tompkins Co. Sheriff			# OF PAGES: X
DATE OF REVIEW:	Rescinds:	Amends:	LEAP: X

I. PURPOSE

The purpose of this order is to establish the rules for the use and operation of body-worn cameras by members of the Tompkins County Sheriff’s Office, including the measures required to secure and safeguard digital evidence captured by the cameras. The use of cameras is intended to assist officers in the performance of their duties, increase transparency and accountability of TCSO operations, and gather evidence for use in the prosecution of crimes.

II. DEFINITIONS

Law Enforcement Operations: includes Patrol Activities, responding to calls for service, traffic stops, arrests, searches, pursuits, physical or verbal confrontations, execution of warrants, and actively engaging in SWAT and/or CINT operations, but excludes training operations and those investigatory activities normally carried out exclusively by officers assigned to the Investigative Unit.

Patrol Activities. Those duties and responsibilities assigned to members of the Patrol Division in GO-3047 Patrol Operations, but only insofar as those duties and responsibilities involve purposeful interaction with one or more particular members of the public.

III. POLICY

It is the policy of the Tompkins County Sheriff’s Office for officers to activate the recording function of body-worn cameras when engaged in Law Enforcement Operations.

A. Assignment of Cameras.

Every officer assigned to the Patrol Division must wear a body camera when on duty, and all other officers must wear a body camera when it is reasonably expected that the officer will engage in Law Enforcement Operations during the officer's shift. In addition, every TCSO officer assigned to SWAT or CINT operations must wear a body camera when responding to a call for those services. An officer wearing a camera must activate the recording function of the camera as required by this General Order.

An officer who is called in to work must first report to TCSO to pick up a camera if he or she reasonably expects to engage in Law Enforcement Operations in response to the call-in. Officers called in to respond to an emergency or when time is of the essence are not required to obtain a camera from TCSO before responding if the officer being called in is so notified by his or her commanding officer.

In the unlikely event that the Department is unable to make a functioning body camera available to an officer otherwise required by this General Order to wear a body camera, said officer may be excused from wearing a body camera only in writing (including by email) by the Sheriff, Undersheriff or Patrol Division Lieutenant for a narrowly-specified period of time.

B. Maintenance of Cameras.

If an officer is required to wear a body camera by this General Order, he or she must check out the appropriate equipment prior to going into service. The officer must test the camera in accordance with manufacturer specifications and departmental training at the start of each shift. This testing includes:

- Verifying that the camera is functional and charged.
- Ensuring that the device is properly placed or affixed for use. After testing and evaluation, the Sheriff will determine the body location where a body camera must be worn, and this General Order will be revised accordingly.

At the end of the officer's shift, the camera must be secured and charged in accordance with manufacturer specifications and departmental training. If a camera is found to be malfunctioning, it must be removed from service and the shift commander notified as soon as reasonably possible.

C. Activation of Recording.

Unless an exception listed in this General Order applies, an officer must activate the recording function of the officer's camera at the beginning of each Law Enforcement Operation in which the officer engages. This General Order is not intended to describe every situation in which a body camera may be used; unless recording is prohibited by this General Order, an officer may begin recording any time the officer believes it would be appropriate and/or valuable to do so.

Informal, non-law enforcement interactions with members of the public (for example, interacting with a person asking for directions) are not Law Enforcement Operations and need not be recorded. However, if the interaction becomes problematic or adversarial, the officer must begin recording.

When responding to a call for service, recording must begin when the officer starts to proceed to the call for service (for example, when the officer notifies dispatch that the officer is responding). Recording of other Law Enforcement Operations must begin at the beginning of the Operation.

Recordings should be made on a per-Operation basis. Officers should not record between Operations.

When an officer fails to activate or achieve the required duration of a recording in a circumstance where recording is required by this General Order, or experiences a camera malfunction that prevents recording, the officer must (i) promptly inform their commanding officer, (ii) document and explain the failure or malfunction in the police report for that incident and any others similarly impacted, and (iii) unless otherwise ordered by their commanding officer due to exigent circumstances, thereafter obtain a functioning body camera before engaging in additional Law Enforcement Operations.

Officers are prohibited from recording:

- Other TCSO personnel during routine, non-Law Enforcement Operations
- In TCSO headquarters or the SWAT Command Center unless either: (i) recording is required by a court order or authorized as part of an administrative or criminal investigation; or (ii) the officer is actively engaging with a subject in custody, complainant, or witness.

D. Duration of Recording.

Once recording is required to begin, recording must continue until: (i) the conclusion of officer's participation in the Operation, incident, or encounter, unless a supervisor authorizes on camera that recording may cease on the basis that the supervisor reasonably concludes that the officer's remaining participation will be non-substantive in nature (for example, conducting traffic direction at a crime scene already brought under control); or (ii) one of the exceptions in this General Order applies.

Recording may be discontinued at the officer's discretion when:

- Interviewing a victim where the victim's privacy may be at issue, including but not limited to victims of rape and domestic abuse, or where the victim is non- or partially-clothed. Where this exception may apply, officers should consider seeking to divert the camera away from the victim or obscuring the lens, if the victim is agreeable to audio recording.

- Interviewing a witness who fears retaliation for cooperating with police, or refuses to cooperate unless the camera is turned off.
- Conducting investigative interviews with Confidential Informants.
- The officer has completed his or her engagement with each subject at the scene, at least on an interim basis, and exited the vicinity of each subject. (This may apply where, for instance, the officer needs to discuss issues regarding the Operation with another officer in private.) In this case, recording must resume when the officer reenters the vicinity of a subject.

Before stopping a recording, the officer must state on the recording the reason(s) for stopping. This requirement is satisfied where the camera captures the officer informing dispatch of the completion of the call for service by radio or the Spillman record system.

Officers are not required to inform members of the public that they are recording, but must disclose that they are recording if asked by any individual other than a suspect.

E. Maintenance of and Access to Videos.

Once a camera and storage system is selected, this General Order will be revised to include additional details regarding the downloading and tagging of videos. All recordings made during an officer's shift shall be uploaded to the storage system at the end of an officer's shift, and shall be tagged by that officer within [48 hours?] of upload. If there is a circumstance when this cannot be accomplished, a supervisor must be notified.

In the event of an officer-involved shooting (whether the individual shot is an officer or non-officer), in-custody death, or other incident involving an officer that results in a non-officer's serious bodily harm or death or during which an officer discharges his or her weapon, the highest ranking officer at the scene (or such other person designated by the Sheriff or his or her designee) is responsible for taking possession of the cameras of all officers at the scene at the time of the incident at the conclusion of the recording by each camera as allowed by this General Order, and preserving the evidence on the cameras for later review.

Video recordings from the cameras will be retained as follows.

- All videos shall be retained for six months after the date of recording and then automatically deleted, unless this General Order requires a longer retention period.
- Videos related to felonies. All footage associated with a felony shall be made part of the case investigative record, and retained in accordance with the MU-1 schedule promulgated by the New York State Department of Education ("MU-1 Schedule") (from 25 years to permanent, depending on the crime).
- Videos related to misdemeanors.

- All videos associated with misdemeanor arrests, and any non-arrest footage associated with DWI stops and sobriety tests, shall be made part of the case investigative record and retained for the five-year period required by the MU-1 Schedule.
- Any other video associated with misdemeanors shall be made part of the case investigative record only if TCSO personnel, designated by the Sheriff or his or her designee, deem the video sufficiently probative of the misdemeanor to merit inclusion in the investigative record.
- Videos associated with violations and traffic infractions. Such a video shall only be made part of the case investigative record if TCSO personnel, designated by the Sheriff or his or her designee, deem the video sufficiently probative of the matter to merit inclusion in the investigative record. Videos made part of a case investigative record shall be retained for the one-year period required by the MU-1 Schedule.
- Videos related to investigations into officer handling of incidents. The retention period for these videos shall be determined in connection with a review of the deadline for filing a complaint with the Sheriff and/or County Administration..

Videos will ordinarily be retained using an online cloud system, but may be maintained on other systems or media under TCSO's control. Videos that are made part of a case investigative record may be removed from an online cloud system (a) upon the expiration of the required retention period, or (b) once burned on a disc or stored on other systems or media under TCSO's control in order to minimize data storage costs.

All recordings are the property of the County of Tompkins. Access to the videos, whether made part of a case investigative record or otherwise, shall be limited. TCSO personnel are prohibited from accessing, tampering with, editing, copying, and/or uploading to any device or website, any video except in accordance with the performance of their official duties. Notwithstanding other provisions of this General Order, access to videos related to an officer-involved shooting (whether the individual shot is an officer or non-officer), in-custody death, or other incident involving an officer that results in a non-officer's serious bodily harm or death or during which an officer discharges his or her weapon, or allegations of criminal actions or misconduct by an officer, shall be restricted to individuals authorized by the County Administrator or the Sheriff.

Except in accordance with the Freedom of Information Law or as required by other law of mandatory applicability, no other individuals shall have access to or be provided with any videos except for the Tompkins County District Attorney's Office and any individuals authorized by the County Administrator or the Sheriff. When a video is responsive to a Freedom of Information Law request, it will be reviewed prior to release and may be withheld or redacted for the same reasons as other police records (including for reasons of personal privacy).

An officer may review video footage prior to making a statement about a recorded incident that may be used in a legal or administrative proceeding. Recordings may be used in support of criminal or disciplinary charges, as well as for training or instructional purposes.

F. Training.

Standards for training officers and other TCSO personnel in the use and maintenance of the cameras and related hardware and software will be developed. All officers and supervisors will be trained regarding the operation of body cameras.

Supervisors are responsible for ensuring the cameras assigned to the officers reporting to them are in working order, and that each officer is using the camera and related software in accordance with departmental policy and training.

This General Order shall be included in the training materials. Each officer shall sign a form acknowledging his or her participation in the training session and receipt of this General Order. Until he or she successfully completes the training, an officer may not wear or operate a body camera other than for training purposes, which training may not occur while the officer is engaged in Law Enforcement Operations.

Kenneth W. Lansing
Sheriff