

## Chapter 17

### On- Body Recording System (OBRS)

#### *References:*

**Graham v. Connor, 490 U.S. 386, 395-96 (The Supreme Court 1989).**

**Harmon, R. A. (2008). When is police violence justified? Northwestern University Law Review, 1129.**

#### *Purpose:*

Establish a policy regarding the use of On-Body Recording Systems by members of the sheriff's office and to establish a policy regarding the storage, release, and retention of OBRS audio/video (A/V) files maintained in department approved storage devices.

#### *Policy:*

The Caldwell County Sheriff's Office is committed to protecting the constitutional rights of all people. We recognize the need to continuously improve our knowledge and application of the law as it pertains to our members in their individual capacity as law enforcement officers, and collectively, as a law enforcement agency. In pursuit of our mission, we further recognize the benefit of employing equipment and technology that will assist us in our ethical, legal and moral obligation to identify, collect and preserve the very best evidence of every encounter between our officers and the public. This is especially true where the possibility exists that our officers may determine it necessary to exercise their legal discretion, power, and authority, in concert with a police intervention, under the color of law. As such, we have chosen to implement the use of on-body recording systems as the primary means of attaining this goal. Our Sheriff's Office has, therefore, chosen the Taser Axon Flex on-body recording system to equip officers with the technology that is most capable of fulfilling our obligation and securing the public trust. We believe the implementation of on-body recording systems will significantly assist our agency in obtaining an ever increasingly, higher degree of enhanced accountability to the communities we serve and protect.

*Procedure:*

- A. OBRS equipment issued to a member of the Sheriff's Office is the responsibility of that officer. The OBRS equipment will be operated according to manufacturer's recommendations and department regulations.
  - 1. All officers operating OBRS equipment will wear the A/V recording device and power pack supplied with each system.
  - 2. Prior to beginning their tour of duty, all officers are required to ensure their OBRS equipment is working properly and that the date and time are accurate.
    - a. All components of the OBRS will be tested to ensure it is in proper working order and functioning properly.
    - b. Officers will immediately notify a supervisor if any problems with the OBRS are detected or the system is not functioning properly.
    - c. Officers will ensure their OBRS has been downloaded of all previous recordings and ensure they are beginning their tour of duty with a cleared system.
    - d. Officers will ensure they begin their tour of duty with a completely charged power source for their assigned OBRS.
    - e. Officers will inform a supervisor of any recorded sequences that may be of value for training purposes.
    - f. If during an officer's tour of duty, any portion of the OBRS malfunctions, the officer will immediately notify a supervisor of same.
  - 3. The OBRS camera will be worn in a position that permits recording, as closely as possible, that which an officer is looking at during an intervention in which the officer is involved or present.
    - a. The camera will be worn on the officer's strong (gun hand) side and mounted to the officer's department issued sunglass/protective

eye wear frames or on the officer's personally owned eye glass frame, if so desired.

b. Though other mounting options are available, wearing the OBRS as required in 3.a. should provide an A/V recording of an incident that most closely resembles a view of the incident comparable to the officer's perspective.

**NOTE: Graham v. Connor, 490 U.S. 386, 395-96 (1989)**

**“...in Graham v. Connor, the Court considered police uses of force more broadly...The Court's...counsel was that reasonableness is an objective inquiry and should be considered from the officer's perspective at the time, taking into consideration the often ‘tense, uncertain, and rapidly evolving’ nature of the circumstances in which police use force” (Harmon, 2008).**

c. The OBRS equipment may be manually deactivated during non-enforcement activities such as protecting an accident scene from other vehicular traffic or during personal time e.g., when an officer may need to use restroom facilities.

1. Nothing in this procedure shall prohibit an officer from activating their OBRS whenever the officer deems the use of an OBRS appropriate.

d. Officers must immediately notify a supervisor if they become aware an OBRS unit has malfunctioned.

4. Officers will use the OBRS unit to record all portions of the following incidents:

a. Responding to calls for service in an emergency status.

b. All traffic pursuits and all foot pursuits.

c. All traffic stops, including the investigation of a vehicle and occupants already stopped or parked.

d. All searches including, but not limited to, people, vehicles, buildings and places.

e. All requests for consent to search without a warrant, including searches of persons, buildings, or vehicles, will be recorded. Both audio and video recordings will be made of the request and consent when practical. This type of recording is intended to enhance a documented consent however; it is not intended to replace the use of any form used to gain and/or record the consent to search without a warrant, when an officer requests such permission.

f. All requests for searches and deployments of drug-detection canines involving vehicles, when practical.

- g. All arrests and/or citations
- h. Any incident where an officer is acting under color of law and it may become necessary for the officer to invoke his or her authority as a law enforcement officer.
- i. Any incident upon direction from a supervisor, at the request of another police officer or anytime an officer deems it appropriate to activate an OBRS unit.
- j. Officers will use only department issued OBRS to record incidents. All duty related recordings of any sheriff's office activity is the property of the sheriff's office.
- k. All domestic violence calls including suspect/victim interviews.

#### B. OBRS Control and Management

1. Except as indicated below, OBRS units will be stored at the officer's place of assignment.
  2. Access to OBRS units is restricted to supervisors for assignment as deemed necessary.
    - a. Commanders can designate a non-supervisory person to have access to OBRS units as the commander deems necessary.
  3. All original OBRS recordings will be downloaded at the end of a member's tour of duty and stored for 90 days following the last date of use.
    - a. OBRS contents will be downloaded only in department approved storage devices.
  4. As directed by a supervisor.

#### C. Audio/Video (A/V) File Control and Management

1. A/V files will be retained only in department approved storage devices.
2. Access to A/V files is restricted to supervisors on a read only basis.
  - a. Commanders can designate a non-supervisory person to have access to A/V files as deemed necessary.
3. All A/V files will be stored for 90 days upon being downloaded to a department approved storage device.
  - a. Duplicates of the A/V files will be made by the district commander's designee only when directed to do so.

#### D. Court and Evidentiary Video Files

1. Duplication of Video Files.

- a. One duplicate of the A/V file will be made and processed as normal evidentiary material in accordance with department procedure for property and evidence.
  - b. Duplicates of the A/V file will consist of the file containing the specific incident.
  - c. All duplicates will be maintained in a department file at the officer's assigned place of duty and the file tracked through documentation as dictated by department procedure.
  - d. Officers will mark all related documents with department approved indication to alert the prosecutor or investigator a duplicate of an A/V file is available. This action will only be initiated when an officer holds a duplicate A/V file as evidence.
2. Anytime an OBRS unit is involved in an auto accident where the OBRS unit is recording, or an OBRS unit records a police vehicle involved in an auto accident, the supervisor in charge of the investigation shall complete the department approved form indicating an A/V recording of the incident exists. The A/V recording will then become part of the vehicle maintenance record. The city attorneys shall have access to these A/V files as needed for any action on behalf of the city.
  - a. The fleet manager will maintain a computer database of these files and act as a liaison with the city attorney's office
  - b. The fleet manager is responsible for final disposition of these A/V files as part of an auto accident file that is not needed after the state mandated records retention period has expired.
3. Anytime an OBRS unit has recorded an arrest of an individual, the arrest report shall indicate that an A/V recorded file of the arrest exists and the prosecutor's office shall be so notified.

#### E. Request for Copies and/or Access to A/V Files

1. Any request for an A/V file should be made prior to the end of the 90-day retention period. All lawful requests for any copy of an existing A/V file will be honored according to department approved protocol for the release of information and in compliance with state law governing freedom of information requests.
2. Requests for copies of A/V files from within the sheriff's office must be submitted according to department approved procedures regulating same.
  - a. Original A/V files must be retained only in department approved storage devices, except when needed as "best evidence" for an investigation.
3. Requests from outside the agency must be accepted by any member of the organization and processed according to department procedure. All

other files will be released according to department procedure and in compliance with state law governing freedom of information requests.

- a. When a request for an A/V file is made from outside of the department, a notation will be completed and the original file will be maintained in the department storage device for a period of one year.
- b. All files requested by the prosecutor's office will be honored in accordance with state and federal laws governing same.
- c. All media request for A/V files will be referred to and processed in accordance with departmental policy and in compliance with state law governing freedom of information requests.

#### F. Supervisory Responsibilities

1. Supervisors in all places of assignment where OBRS units have been deployed will follow established procedures for the use and maintenance of OBRS equipment, files, and storage devices. Supervisors are responsible for the completion of all required OBRS documentation.
2. Supervisors are responsible for the inspection of all OBRS equipment in accordance with department established protocol.
3. Supervisors are responsible for ensuring that all personnel assigned to their unit have downloaded their OBRS equipment at the end of their tour of duty and that OBRS equipment has been accounted for in compliance with department procedure.
4. Each shift OIC will ensure that a supervisor randomly selects (#) of A/V files to review at least once per week. During that review, a specific incident will be identified, reviewed in its entirety, and documented in accordance with department protocol. These reviews will be conducted for training and integrity purposes.
  - a. Supervisors will not review incidents known to have been previously reviewed. Supervisors will not include the review of any incident occurring during their current shift which was reviewed in accordance with procedure, e.g. vehicle pursuits, use of force incidents, etc.
  - b. Supervisors conducting these reviews will document same in an electric logbook maintained by the assigned unit and in accordance with department procedure.
  - c. Supervisors will conduct periodic and random inspections of OBSR equipment to confirm it is in proper working order.
5. Supervisors will review the A/V files of all OBRS equipment of all officers listed in any department report, or any officer who was present at any of the following incident involving:
  - a. Injury to prisoners

- b. Use of force by a department member
- c. Injury to officers
- d. Vehicle pursuits
- e. Police officer needs assistance radio run
- f. Citizen complaints
- g. Anytime it is deemed appropriate to review A/V recordings or as directed by a supervisor or command officer.

6. All reports submitted that are related to the above incidents shall include a copy of the A/V file of all officers involved or present at the incident.

#### G. Maintenance, repair, and Replacement of OBRS Equipment

- 1. All malfunctioning OBRS equipment shall be submitted to the designated department unit for service repair.
- 2. The designated service repair unit shall serve as the liaison with the OBRS vendor. All repairs will be performed as recommended by the vendor.
- 3. The storage, distribution, tracking, and repair of OBRS equipment will be designated in the unit of assignment Standard Operating Procedures and in compliance with department protocol for same.