



San Diego County Sheriff's Department



William D. Gore, Sheriff

Kelly A. Martinez
Undersheriff

July 8, 2021

Susan N. Youngflesh, Board Chairperson
Citizens' Law Enforcement Review Board
555 West Beech Street, Suite 505
San Diego, CA 92101-3819

CLERB CASE NUMBER: 19-091

Dear Chairperson Youngflesh,

The Sheriff's Department welcomes and supports the Citizens' Law Enforcement Review Board's (CLERB) independent review of complaints alleging improper actions by members of this organization and in-custody deaths. We continuously strive to respond with professionalism and concern to the citizens we serve and the CLERB process provides invaluable input to that end.

On July 17, 2020, CLERB recommended policy changes related to San Diego County Sheriff's Department Policy and Procedure Section 6.131- Body Worn Camera. CLERB specifically recommended the below change:

1. It is recommended that the SDSD revises its SDSD P&P Section 6.131 - Body Worn Cameras, as well as in its SDSD Patrol Procedures Manual, that deputies shall activate their BWC, as well as the audio, for all dispatch calls including, but not limited to contact with citizens, interviews, searches, traffic stops, protests and other events protected by the First Amendment, absent of discussing personal, tactical, and/or sensitive information.

SDSD P&P Section 6.131 was already under review for proposed revisions, similar to the CLERB recommendations. Please see the attached revised procedure, which was implemented on June 1, 2021. The SDSD Patrol Procedures Manual has recently been renamed as the Field Operations Manual. There is a policy section in the SDSD Field Operations Manual for Body Worn Camera which was also revised and implemented in June 2021. Attached is a copy of the SDSD Field Operations Manual for Body Worn Camera, Policy 45.

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In closing, we appreciate the time and effort of the Citizens' Law Enforcement Review Board. I would like to thank you for your service to the citizens of San Diego County and the policy recommendations. It is our goal to provide the "Highest quality public safety services" to everyone in San Diego County.

Sincerely,

WILLIAM D. GORE, SHERIFF



Michelle Craig, Lieutenant
Officer of the Sheriff
Division of Inspectional Services
WDG:MC/kb

6.131 BODY WORN CAMERAS

The body-worn camera (BWC) is an "on-the-body" audio and video recording system assigned to a deputy sheriff or community services officer (CSO) as an additional means of documenting specific incidents in the field Law Enforcement Services Bureau (LESB) and Court Services Bureau (CSB). Deputies/ CSO's are responsible for knowing and complying with this procedure as well as the Body Worn Camera Operation Manual.

TRAINING

Deputies/ CSO's will not use the BWC until they have successfully completed the required training.

GENERAL

- BWC's shall be operated in accordance with the manufacturer's guidelines and Department training, policies, and procedures.
- BWC's shall be worn or used by uniformed personnel at all times during on duty hours in a law enforcement capacity, unless directed by a supervisor.
- BWC equipment is for official use only and shall not be utilized for personal use.
- All digital evidence collected using the BWC is considered property of the San Diego County Sheriff's Department and is for official use only.
- Accessing, copying, forwarding or releasing any digital evidence for other than official law enforcement use, or contrary to this procedure, is strictly prohibited.
- Public release of digital evidence is prohibited unless approved by the Sheriff or their designee.

GENERAL OPERATIONAL PROHIBITIONS/RESTRICTIONS

Sheriff's Department personnel shall not tamper with or dismantle any hardware or software component of any BWC device.

Deputies/CSO's will typically not allow citizens to review recordings; however, deputy/CSO discretion is allowed to replay the recording for citizens at the scene in order to mitigate possible minor complaints.

Deputies/CSO's shall not make copies of any recording for their personal use and are prohibited from using a recording device (such as a camera phone or secondary video camera) to record media from BWC software or any device utilized to view data recorded on body-worn cameras.

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Deputies/CSO's are prohibited from pairing or using their personal phone, smart device, or other personal recording device for body-worn camera applications, or audio recording applications, unless authorized by a supervisor.

Deputies are authorized and may wear their assigned BWC while working overtime assignments. However, deputies shall ensure that the use of the camera while working overtime will not interfere with the use of the body-worn camera while working their regular shift.

CAMERA POSITION

Deputies/ CSO's shall wear the BWC in a position that provides for the most effective recording angle for the model provided to the wearer while also ensuring the ability to safely activate the camera prior to, or during an incident.

Deputies/CSO's shall not intentionally obscure the view of their body worn camera.

ADVISEMENTS ABOUT RECORDING

Deputies/ CSO's are not required to give notice that they are recording, whether in public areas or private residences. However, if asked, the deputy/CSO may advise citizens they are being recorded.

When recording interviews, employees shall ensure they record any admonishments prior to the start of an interview.

Deputies and Sheriff's supervisors involved in an administrative investigation of a complaint against a member of the Sheriff's Department must inform complainants and witnesses they are being recorded.

WHEN AND WHERE TO RECORD

It is the intent of the Sheriff's Department to record all law enforcement related contacts, and other contacts deemed appropriate.

Law Enforcement Related Contacts

When responding to a call for service, a deputy/CSO shall activate their BWC in record mode prior to arriving on scene or upon arrival and prior to exiting their patrol vehicle. In situations where activation was not accomplished prior to arriving on scene, those reasons shall be articulated in writing via case related report, or if no report, in CAD. Deputies/CSO's should also begin recording prior to initiating any law enforcement related contact. Deputies/ CSO's shall activate the BWC to record all law enforcement related contacts. While away from department facilities, deputies shall keep their BWC powered on and in stand-by mode, anticipating law enforcement related contacts. If for confidential or personal reasons, deputies/CSO's feel the need to power-off their BWC momentarily (i.e. phone call, email or bathroom break) while away from department facilities, they need to remember to power-on and reactivate their BWC after their reasoning for powering-off has concluded.

San Diego County Sheriff's Department – Procedure Section

The record mode of the camera should be activated prior to actual contact with a citizen (victim/witness/suspect), or as soon as safely possible, and continue recording until the contact is completed.

Deputies shall begin recording prior to arriving to an incident if the call has the potential to involve immediate enforcement action upon arrival.

Law enforcement related contacts include but are not limited to the following: traffic stops, field interviews, vehicle tows, issuing of citations, issuing of parking tickets, detentions, arrests, persons present at radio calls who are accused of crimes, serving court orders or civil papers, investigative interviews, deputy initiated consensual encounters and private person initiated contacts of a confrontational nature.

Specific acceptable uses of a BWC include, but are not limited to:

- Capturing crimes in-progress
- Maintaining evidence for presentation in court
- Documenting initial department response, discovery of evidentiary items and actions of the Department pursuant to an investigation
- Aiding in the documentation of victim, witness or suspect statements pursuant to a criminal investigation and the on-scene response and/or document advisement of rights, if applicable

Deputies in plain clothes assignments are not required to wear BWC's; however, they will utilize a BWC when working or assigned to a uniformed patrol assignment or when donning an external vest in a plain clothes assignment if issued a BWC. Members of task forces are not required to wear BWC's while working in a task force capacity but may be directed to do so by a supervisor.

Victim, Witness, and Suspect Interviews

Deputies/CSO's shall record all victim, witness, and suspect interviews on their BWC's and use the recordings to assist them with report writing. When recording suspect interviews, deputies shall ensure they also record any admonishments prior to the start of an interview.

Searches

Uniformed deputies, and deputies in plain clothes assignments wearing external vests and required to use their BWC, shall record during the execution of a search warrant regardless of whether or not persons are present, also during service of an arrest warrant, a Fourth Amendment waiver search, or a consent search in which the deputy is looking for a suspect, victim of a crime, evidence or contraband.

Protests or Mobile Field Force (MFF) deployments

Uniformed deputies equipped with BWC's shall activate the record feature, if presented with a threat of violence or potential for law enforcement related contacts, while actively deployed at protests. This includes both MFF deployments as well as uniformed monitoring of smaller events such as those that occur regularly at the County Administration Center (CAC).

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WHEN AND WHERE NOT TO RECORD

BWC's shall not be used to record non-work-related activity.

BWC's shall not be used to record in areas or activities such as pre-shift conferences, department locker rooms, break rooms, report writing rooms, tactical briefings or other activities not related to law enforcement activity.

BWC's shall not be activated in places where persons have a reasonable expectation of privacy, such as locker rooms, dressing rooms, or restrooms.

BWC's shall not be recording during court proceedings; however, a deputy should activate the BWC during any emergency situation inside the courtroom and during any activity deemed by the deputy to be enforcement related.

Deputies/CSO's shall not use BWC's to make surreptitious recordings of other department members.

Investigators shall not use the BWC's during Department administrative investigations.

Patient Privacy

Deputies/CSO's shall not record patients during medical or psychological evaluations by a clinician or similar professional or during treatment, except when necessary by law or to preserve evidence. This includes during PERT clinician interviews. Deputies/CSO's shall be sensitive to patients' rights to privacy when in a hospital or medical facility setting and attempt to avoid recording persons other than the victim, witness or suspect.

Deputies/CSO's shall not record while in a facility whose primary purpose is to provide psychiatric services unless responding to a radio call involving a suspect who is still present or transporting an arrestee to a psychiatric facility.

Regardless of the setting, deputies confronting a violent or assaultive suspect, or anticipating using force, shall activate their BWC's to record the encounter.

Process for Interview Refusals

Deputies/CSO's shall record victim and witness interviews as previously described. However, if the victim or witness refuses to provide a statement with the BWC turned on, the deputy/CSO may shut off the BWC after adhering to the following procedure:

- Before turning off the BWC, the deputy/CSO shall verbally notate on the BWC the reason for shutting it off and the time it is shut off.
- During the interview, if it becomes appropriate to reactivate the BWC, the deputy/CSO will immediately or as soon as practical, do so.
- Deputies/CSO's shall document in NetRMS that the BWC was turned off and the reasons why.

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MUTING

BWC's are equipped with functionality to allow for the "muting" of the camera. This allows video recording without audio. Muting is generally discouraged; however, there are situations in which muting may be beneficial. The muting of the camera shall only be performed as directed by a supervisor or in accordance with the specific considerations of this policy. Audio may be muted for a specific articulable reason and only for the amount of time necessary to complete the privileged conversation. Once privileged conversation has concluded, the camera shall be returned to full function. In all instances of muted audio, the deputy will document the reason for muting. Before muting the recorder, the deputy shall consider verbally explaining the reason for muting. Here are considerations for muting:

- **TACTICAL CONSIDERATIONS**

When specific law enforcement tactics are being discussed, which if released could result in the compromise of future law enforcement operations or jeopardize officer safety.

- **CONFIDENTIAL INFORMATION CONSIDERATIONS**

Due to the confidential nature of some investigations, any personnel utilizing a BWC device must be aware of any potential issues which may result in the compromise of an investigation or could potentially lead to a cooperating individual being harmed. Due to this potential and the fluid nature of some investigations, personnel may mute the audio portion of the BWC recording during any portion of a contact where case sensitive information is being discussed. If confidential information is not being discussed, the audio portion of the recording is to remain on. The video portion of the BWC will remain operational during the contact.

All confidential information not recorded by the BWC, which is pertinent to the investigation, will be documented in a confidential supplemental report (per C.A. Evidence codes 1040-1042). The confidential supplemental report will then be walked into the District Attorney's office by the case agent or their designee.

In the event confidential information is recorded, the recording deputy will notify their supervisor. Either the supervisor or assigned detective will then contact the Video Analysis Unit (VAU) prior to downloading the video. The VAU will store the video in a partitioned storage area which has limited access. Once the notification to the VAU has been made, the video from the BWC may then be downloaded. The BWC video WILL be documented in the associated confidential supplemental report. Copies of the video will be provided to the District Attorney's office upon request. Any copies of the BWC video requested by the District Attorney's office will be placed onto a physical medium (CD, SD Card, Flash Drive, etc.) and walked into the assigned Deputy District Attorney. Electronic and/or third-party delivery of sensitive information is strictly prohibited.

- **CONFIDENTIAL INFORMANT CONSIDERATIONS**

If a subject offers to provide information to a deputy or detective during any contact, the deputy or detective will immediately cease all BWC recording prior to questioning the subject further. The BWC is not to be utilized during a debrief of a subject. Any BWC video showing a subject's willingness to cooperate with law enforcement, which if released could result in retaliation against the subject is to be considered confidential in nature and will be processed as such.

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The intentional recording of confidential informants and undercover deputies is prohibited, unless authorized by a supervisor.

- CONFIDENTIAL INFORMATION CHECKLIST:
 - Notify the supervisor of the BWC recording and 1040 information.
 - Notify the VAU of the recording prior to downloading.
 - Document the contact and existence of the recording in the associated 1040 confidential supplemental report.
 - Walk in any confidential supplemental documentation to the assigned DDA.
 - Provide BWC recording upon request
- REPORTING

In all cases where BWC video is muted, it shall be documented in writing. How it is documented will be situationally dependent. The reason for muting the camera(s) will be briefly noted in the body of a report (arrest, crime misc. incident). In the case of confidential information a separate supplemental report shall be written as detailed above. Additionally, a brief explanation noting the muting of the camera(s) will be documented via CAD by each deputy that muted their camera. If no report for an event is otherwise needed, CAD documentation shall suffice.

ACCESSING DIGITAL EVIDENCE

BWC video evidence may only be accessed by those with a specific need to access it in order to accomplish a task related to their current assignment.

RETENTION OF DIGITAL EVIDENCE

All recordings related to any criminal proceeding, claim filed, pending litigation, or an administrative investigation/personnel complaint, shall be preserved until that matter is resolved and/or in accordance with the law or whichever period of time is greater.

REVIEWING IMPOUNDED DIGITAL EVIDENCE

Employees may review their own BWC recordings as a resource to aid them in preparing written reports. With the exception of a public safety statement, employees involved in a critical incident shall be allowed to review their own recordings of the incident prior to giving a statement.

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A deputy/CSO may not review the BWC video of other involved deputies prior to writing a report or giving a statement unless necessary for evidentiary purposes and with the express permission of a supervisor.

Detectives are responsible for reviewing, tracking digital evidence associated with their assigned cases, and forwarding digital evidence to the District Attorney or City Attorney when appropriate.

Should circumstances require the immediate retrieval of a digital recording (e.g., department shootings, and department involved accidents with serious injury), a supervisor shall ensure that the BWC system is secured and maintain chain of custody.

Digital evidence may be viewed/shared when necessary to accomplish a task related to an employee's current assignment such as preparation at trial, hearings, depositions, or criminal investigations.

In situations where a deputy is unable to provide information due to injury, their camera system may be viewed by any on scene deputy for the purpose of gaining critical investigative information.

In situations where there is a need to review digital evidence not covered by this procedure, a Sheriff's Lieutenant or higher must document and approve the request. Each situation will be evaluated on a case by case basis.

EDITING AND DELETING DIGITAL EVIDENCE

Deputies/ CSO's shall not edit or delete digital evidence. If an edited copy of the digital evidence is required, a copy of the original file shall be made, and only the copy shall be edited.

DISCOVERY OF MISCONDUCT

Employees reviewing event recordings should remain focused on the incident or incidents in question and review only those recordings relevant to their investigative scope. If misconduct is discovered during any review of digital evidence, the conduct in question shall be brought to a supervisor. Nothing in this procedure prohibits addressing policy violations. To enhance oversight and assess the level of policy compliance, supervisors will regularly spot check staff BWC videos. **COPYING AND RELEASING DIGITAL EVIDENCE**

Digital evidence captured by BWC shall be treated as official investigative records and handled pursuant to existing Department policies and procedures.

USE OF DIGITAL EVIDENCE FOR TRAINING PURPOSES

The use of BWC video for training purposes shall be pursuant to the written authority of the Human Resources Assistant Sheriff or their designee. Deputies/CSO's shall be provided with at least thirty days' notice before BWC video made by them or capturing their image or voice is authorized to be used for training. After notice is given, the Training Lieutenant shall obtain approval from the Chain of Command and Sheriff's Legal prior to department-wide distribution.

Annual Reviews

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The Division of Inspectional Services (DIS) will conduct an annual BWC review and will provide a written report to the Office of the Sheriff. A biannual review shall be completed by VAU on camera operations and all data captured, stored, or otherwise produced by the use of the system to include, but not limited to;

- Camera functionality
- Camera performance and placement
- Camera attributes (PTZ)
- Operator functionality
- Quality control
- Exterior condition
- Monitor performance and video sustainability
- Protection of the right to privacy

All user access level changes require the approval of the highest-ranking member assigned to the station or division. On a biannual basis that member shall complete a review of the user access roles for the personnel assigned under their command and notify VAU of any necessary changes. Upon verifying the correct user access level, the signed report will be forwarded to VAU for retention.

DATA INTEGRITY

It is incumbent upon deputies, CSO's, and supervisors to maintain the integrity of the BWC videos which are produced. The Field Operations Manual identifies those functions specific to entering metadata and labeling videos appropriately. Deputies, CSO's, and supervisors shall be responsible for ensuring BWC's are assigned to the correct user and that all metadata is entered correctly. To that end, each video that is produced shall be checked for accuracy by the producing deputy. Any discrepancies or missing data shall be corrected as soon as possible but no later than the end of each work week. Supervisors shall periodically review the metadata of deputies/CSO's within their assigned unit and are responsible for ensuring discrepancies are remedied in a timely manner.

(06-03-21)

POLICY 45. BODY WORN CAMERA

A. Introduction

1. To enhance the services provided to the community, the San Diego County Sheriff's Department authorizes the use of Body Worn Camera (BWC) technology. The goal of the BWC system is to provide an additional layer of documentation for events, actions, conditions and statements made during critical incidents and to improve reports, collection of evidence and testimony in court. The use of BWC technology is meant to assist and complement deputy sheriffs and community service officers in the performance of their duties and is not meant to replace or relieve the deputy or community service officer of his/her responsibility of submitting any and all required written reports.

B. BWC Limitations

1. Digital evidence captured by the BWC has limitations and is not all inclusive. The system captures a less broad and less detailed image than the totality of the human senses. A deputy/community service officer's recollection of specific details may be different than what is captured in digital evidence.

C. Deputy Safety

1. Deputy/officer safety takes precedence over recording events. Deputies shall follow existing deputy/officer safety policies and training when conducting law enforcement related contacts as outlined in department policies and procedures. Deputy/officer safety shall be the primary consideration when contacting citizens or conducting law enforcement related contacts, not the ability to record an event.
2. There are multiple situations when activating a BWC is needed; however, this manual is not intended to describe every possible circumstance. The safety of deputies and members of the public is the highest priority, and the department acknowledges there may be situations in which operation of the BWC is impractical or may be an impediment to deputy and public safety. Additionally, the department recognizes human performance limitations during particularly stressful and critical situations.

D. Definitions

1. Body-Worn Camera (BWC) - A camera worn on an individual's person that records and stores audio and video.
2. BWC Program Administrator - San Diego Sheriff's Department program administrator for the BWC platform will have full access to the website to assign

and track equipment; controls passwords; conduct quality checks of uploaded data; coordinate data retention/destruction; provide copies of requested data to requesting deputy. An end user cannot alter or delete video recordings.

3. End User – Individual deputy and community service officer with individual account access to BWC platform.
4. Digital Evidence - BWC files, including photographs, audio recordings and video footage that are captured by a BWC is considered investigative material and stored digitally.
5. Buffering Mode – When a BWC is in standby mode, but has not been activated to record both sound and video. While in the buffering mode, the camera will continuously record video only on a loop.
6. Evidence Transfer System (ETS) - A portable multi-ported docking station installed at the county facilities. The ETS simultaneously recharges the BWC while uploading all digitally encrypted data from the device.
7. Metadata - Case numbers, event/incident numbers, and other descriptors used to identify digital evidence.

E. Storage

1. When not in use, the BWC devices shall be stored in the designated docking module or in a secure storage location at each patrol station, court, or any detention facility. Deputies will ensure the BWC is properly seated into the docking station to allow for proper downloading and charging. Exception to this would be traffic, rural, and any deputy that is subject to call-outs and routinely transports camera to and from home. Those deputies will receive two BWC's to facilitate callouts from home.

F. Pre-shift inspection

1. Deputies/community service officers assigned to wear a BWC shall inspect their BWC device daily to ensure there is no visual damage and the device is in working order. Only fully charged and operational systems shall be used, unless otherwise approved by a supervisor.
2. Damaged and inoperable equipment shall be reported to a supervisor and returned to the Video Analysis Unit as soon as possible.

G. Extended use and overtime

1. Should a battery in a BWC become depleted due to extended shifts, deputies shall notify a supervisor immediately. As soon as practical, deputies will return the BWC to a docking station for downloading and charging.

2. When deputies are working a planned overtime shift at another station they should check out a BWC from the sergeant from that station. For special events such as, Del Mar Fair, CAC events, and DUI check points the deputy will contact the supervisor in charge to obtain a BWC to use.

H. Deletion of unintentional recordings

1. In the event of an unintentional activation of the BWC during non-enforcement or non- investigative activities, e.g. restroom or meal break, other areas where reasonable expectation of privacy exists, deputies may request the unintentional recording be deleted. A Body Worn Camera Video deletion form will be filled out and emailed to the Video Analysis Unit (VAU) sergeant. The form will include a gender sensitive review option to address any privacy concerns. Once the video has been reviewed and determined to be unintentional by the VAU sergeant or their designee, it will be forwarded to the VAU lieutenant. The VAU lieutenant or their designee will review the video and give the final approval for deletion.

I. Demonstrations

1. When there is reason to believe that a planned event has the potential for unlawful activity, deputies should record all law enforcement related contacts with demonstrators.

J. Entering metadata

1. Each recorded segment requires metadata be entered, even if the segments are of the same event. Metadata should be added at the conclusion of the event if not automatically done. In case of a delay, metadata should be added as soon as possible, and always prior to downloading the evidence off of the camera.
 - a. When entering the metadata case ID # deputies shall use the CAD incident number assigned.
 - b. Deputies shall assign a category to every video recorded. In the event more than one category is applicable, the category with the longer retention rate shall be selected.

K. Downloading/storage procedures

1. After verifying the required metadata has been added to all recorded events, deputies shall place the BWC into a slot on the Evidence Transfer System at the end of their shift. This will allow for the battery to recharge. The data will automatically be transferred from the BWC through the Evidence Transfer System and/or Sheriff's Data Services dedicated server. The data is considered entered into evidence at this point. The only exception is deputies who did not return to the station at the end of their shift, or any deputy with the approval of their supervisor. In these instances, the deputy is required to place the BWC into

the slot on the Evidence Transfer System upon returning to their station, but in no case more than seven (7) days later, unless approved in writing by a supervisor.

L. Documentation of recorded events

1. All recordings shall be documented, in NETRMS, field citation, field interview, CAD event history, etc.
 - a. NETRMS - "BWC Video" shall be recorded in the, "Special Studies" tab and in the Evidence section.
 - b. Field Interviews- "BWC Recording" shall be recorded in the narrative.
 - c. Traffic Citations - "Video" box shall be marked near the top of all citations.
 - d. Other Reports - "BWC Recording" shall be noted in the narrative.
 - e. Unless writing their own report, cover deputies shall notify the case agent BWC evidence exists and provide a short description of what the recording depicts.
 - f. Other recordings - non evidentiary recordings, such as inadvertent recordings, recordings initiated for training, or recordings with no associated report shall be documented in the CAD event history.
 - g. BWC recordings will be documented into NetRMS reports via the property section using #1306. The quantity is the total amount of BWC collected from all deputies on scene. For example, if three deputies including the case agent are on scene, the case agent would use the code #1306, quantity three.

M. Supplemental documentation

1. Injuries
 - a. BWCs may be used to document physical injuries to persons injured during an incident however; using a BWC to document an injury does not relieve any deputy of their responsibility to properly identify and describe the injury in a deputy's report. Deputies should still take digital photographs to document injuries.
2. Scene documentation
 - a. BWCs may be used to supplement the documentation of a crime scene. Using a BWC to document the scene of an incident does not relieve a deputy of the responsibility to properly identify and describe the scene in a deputy's report. In addition to collecting any digital photographs needed.

3. Transportation of arrestee

- a. BWCs may be used to record during the transportation of an arrestee. Using the BWC to record during the transportation of an arrestee does not relieve the deputy of a responsibility to document the recording in a deputy's report.