


PS COMMITTEE #1
February 25, 2019
Update

MEMORANDUM

February 21, 2019

TO: Public Safety Committee

FROM: Susan J. Farag, Legislative Analyst 

SUBJECT: **Update: Sheriff Body Camera Program**

PURPOSE: To receive update on the body-worn camera program.

Today, the Committee will receive an update from the Sheriff on the Sheriff's body camera pilot program, including experience to date, any unforeseen costs or challenges, and plans moving forward.

The following are expected to brief the Committee:

Sheriff Darrin Popkin
Chief Deputy Sheriff Mark Bonanno
Mary Lou Wirdzek, Sheriff's Office

BACKGROUND

Many local law enforcement agencies are implementing body-worn camera programs to both improve evidence documentation and provide officer accountability. The Montgomery County Police Department, the Park Police, and several local municipal police departments have implemented body-worn camera programs.

In October 2017, the Sheriff's Office followed suit and began a body camera pilot program using Axon 2 Body Worn Camera Systems. The pilot was a one-year program, funded by Axon, at no cost to the Sheriff's Office. This pilot was set to expire in October 2018. There are currently 162 users, outfitted with two cameras each, in a similar configuration to the Montgomery County Police Department's contract (same vendor).

The County Executive's recommended FY19 operating budget did not include funding for the continuation of the program, even though the pilot program was slated to end later that year.

The Council approved \$229,903 on the Reconciliation List to provide FY19 funding, which covered the purchase of two cameras each for 162 users, six additional cameras, as well as 30 wall mounts and 30 six-bay docks. Hardware costs totaled \$112,558. Data storage costs are ongoing, and are currently \$79 per month per user, or \$117,315.

Full deployment requires training from both MCPD and Axon. The training provided by Axon is a “train the trainer” course. Several deputies who participated in the initial pilot program were selected to be trained and become trainers for the rest of the Sheriff’s Office. The Sheriff’s body-worn camera policy is attached at © 1-10, and provides guidance on operational protocol, prohibited use, reporting requirements, data retention, and release of recordings and data.

DISCUSSION ISSUES

1. Has the Sheriff’s Office received any complaints about the use of body cameras from the public?
2. Are you receiving MPIA requests for video? If so, how many? And what is the impact on staff time?
3. Are there any additional equipment needs moving into FY20?

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OFFICE OF THE COUNTY SHERIFF
 Montgomery County, Maryland
Darren M. Popkin, Sheriff
GENERAL OPERATIONAL PROCEDURES



<u>Subject:</u>	<u>Number:</u>	<u>Effective Date:</u>
Body Worn Camera System	3.51	10/18/17

Purpose: It is the policy of Montgomery County Sheriff's Office to utilize a Body-Worn Camera System (BWCS) for the purpose of documenting evidence and accurately recording, through video and audio, interactions that occur between deputies, during the course of their regular duties, and members of the public. All BWCS equipment and recordings are the property of the Montgomery County Sheriff's Office.
(41.3.8.a)

Contents:

- I. Definitions
- II. Legal Considerations
- III. Implementation
- IV. Operational Protocol
- V. Activation of the Body Worn Camera System
- VI. Prohibited Use
- VII. Reporting and Required Documentation
- VIII. Internal Access, Review and Use of Recordings
- IX. Retention of Data
- X. Release of BWCS Recordings and Data
- XI. Cancellation
- XII. CALEA Standards

I. Definitions

- A. Body Worn Camera System (BWCS) - A camera system worn on the person of a uniformed deputy, or a deputy prominently displaying their badge, that is capable of recording video and audio.
- B. Deputy - All sworn Montgomery County deputy sheriffs.
- C. Employee - All employees of the Sheriff's Office (both sworn and non-sworn).

II. Legal Considerations

- A. Pursuant to the "State Wiretap Act", MD. Code, Courts and Judicial Proceedings Article, §10-401 - §10-403, it is unlawful for any person to willfully intercept, endeavor to intercept, disclose, endeavor to disclose, use, or endeavor to use any oral communications, subject to certain exceptions. "Oral communication" is defined as any conversation or words spoken to or by any person in private conversation.

- B. The State Wiretap Act makes it lawful for a law enforcement officer, in the course of the officer's regular duty, to intercept an oral communication with a body-worn digital recording device or an electronic control device, capable of recording video and oral communication if:
- (1) The law enforcement officer is in uniform or prominently displaying the officer's badge;
 - (2) The law enforcement officer is making reasonable efforts to conform to standards in accordance with § 3-511 of the Public Safety Article for the use of body worn digital recording devices;
 - (3) The law enforcement officer is a party to the oral communication;
 - (4) The law enforcement officer notifies, as soon as is practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so; and
 - (5) The oral interception is being made as part of a videotape or digital recording.
- C. The State Wiretap Act also makes it lawful for a law enforcement officer to intercept an oral communication where the officer is party to the communication and where all parties to the communication have given prior consent to the recording.

III. Implementation

- A. The BWCS program will be instituted for designated deputies. The BWCS will be used to document events, actions, conditions and statements made during law enforcement related encounters and activities as authorized under this program.
- B. The Sheriff's Office will provide training to deputies prior to use of the BWCS. Training will include, operation of the BWCS and a review of policy, as well as alternative methods for effective notification of recording to persons with special needs or limited English proficiency.
- C. Participating deputies will use the BWCS in accordance with their training and this policy.

IV. Operational Protocol

- A. Only deputies trained in the proper use of the BWCS may use the system. (41.3.8.f)
- B. All BWCS recordings and recording devices will be used for official Montgomery County Sheriff's Office business only. Use of the BWCS will comply with all applicable laws, rules, regulations and this policy.

- C. Prior to the beginning of each shift, deputies will perform a function test of the BWCS in accordance with their training and manufacturers recommendations to ensure that the BWCS is operating properly. Deputies discovering a BWCS malfunction will promptly report the malfunction to a supervisor. (41.3.8.e)
- D. The BWCS will be worn in a manner consistent with Maryland Law, Sheriff's Office training and this policy.
- E. Deputies are only authorized to use a BWCS in the course of their regular duties while in uniform or prominently displaying the deputy's badge.
- F. Deputies may not use the BWCS while engaged in secondary employment.
- G. Deputies will only wear and use a Sheriff's Office issued BWCS.

V. Activation of the Body Worn Camera System (41.3.8.b)

- A. Deputies will only activate the BWCS while carrying out law enforcement activities.
- B. Except as otherwise exempted by law, deputies will notify individuals that they are being recorded as soon as practicable, unless it is unsafe, impractical, or impossible to do so.
 - (1) This notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.
 - (2) Examples of potential notification language include:
 - (a) "You are being audibly and visually recorded"; or
 - (b) "Our interaction is being recorded by my body camera".
- C. The BWCS must be activated during all law enforcement related encounters and activities such as, but not limited to, the following examples;
 - (1) At the initiation of a call for service or other activity that is investigative or enforcement in nature.
 - (2) All enforcement and investigation related public contacts.
 - (3) Documentation of evidence that can be used in the prosecution of criminal and traffic offenses.
 - (4) Arrests.
 - (5) Transports.
 - (6) Traffic stops.
 - (7) Priority responses.

- (8) Foot pursuits.
 - (9) Suspicious situations.
 - (10) All searches (persons, vehicles, structures, effects and all canine searches), except strip searches.
 - (11) Interviews and interrogations.
 - (12) Mental health interventions.
 - (13) Evictions.
 - (14) Property seizures conducted while serving or enforcing court orders.
 - (15) Service of all domestic violence court orders.
 - (16) Any contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording.
- D. Once the BWCS has been activated, deputies will continue to record until:
- (1) The deputy has left the scene and anticipates no further involvement in the event;
 - (2) A supervisor has directed that recording must cease;
 - (3) The deputy is no longer engaged in a related investigative or enforcement activity; or
 - (4) The event has concluded. An event will be deemed “concluded” when:
 - (a) All arrests have been made and arrestees have been transported and/or released from custody;
 - (b) All witnesses and victims have been interviewed;
 - (c) The continued recording will not serve to obtain additional evidence; and
 - (d) No further law enforcement action is likely to occur.
- E. Whenever the BWCS equipment is deactivated, the deputy must record a brief verbal explanation for the deactivation prior to turning off the recording.
- F. There may be instances in which deputies are unable to activate their BWCS due to circumstances making it unsafe, impossible, or impractical to do so. In these exigent circumstances, deputies must begin recording with the BWCS at the first reasonable opportunity to do so and document the reason for the delayed start in the incident report and/or as part of the recording.

- G. In situations when community members, witnesses, crime victims or other parties wish to share information related to criminal activity, but refuse to do so while being recorded, deputies will have the discretion to turn off the BWCS during the interview. The preference is to record such statements; however, it is recognized that such persons may be hesitant to provide information while being recorded due to a fear of retaliation, privacy concerns or a feeling that the information is sensitive. In these situations, deputies may decide that obtaining the information is more important than recording the conversation. In such situation, the deputy must record a brief verbal explanation for the deactivation prior to turning off the recording.
- H. The BWCS may be deactivated during conversations with law enforcement officers or supervisors during information sharing sessions or when discussing tactics and strategy.
- I. Deputies are required to obtain consent prior to recording an interview with a victim of a sex offense. Consent in these cases must be documented/recorded on camera.

VI. Prohibited Use

- A. A deputy must not activate a BWCS to create recordings in locker rooms, dressing rooms, and restrooms unless part of a criminal investigation.
- B. A BWCS must not be used to create recordings of strip searches.
- C. A BWCS must not be used to record routine administrative activities.
- D. Deputies must not intentionally record undercover officers or confidential informants without their consent.
- E. Deputies must not record non-work related personal activity.
- F. Deputies must not activate the BWCS during non-law enforcement activities.

VII. Reporting and Required Documentation

- A. Whenever a BWCS recording is made of an event that results in an Incident Report (MCSO9), the reporting deputy must note in the report that the recording exists, if known.
- B. All BWCS recordings must be uploaded by the deputy at the end of his or her assigned shift, unless an exception is authorized by a supervisor. The deputy will be responsible for properly categorizing and tagging the recording at the time of the upload.
- C. In a critical incident, such as a deputy involved shooting, in-custody death or other deputy involved incident that results in serious injury or death, a supervisor must immediately take custody of the BWCS and, in such case, will be responsible for the upload.

VIII. Internal Access, Review and Use of Recordings (41.3.8.c)

- A. The BWCS recording may be reviewed by the recording deputy for any work-related reason, including but not limited to:

- (1) Ensuring the BWCS system is working properly.
 - (2) Assisting with the writing of a report or other official document.
 - (3) Reviewing or critiquing his or her own performance.
 - (4) Reviewing or preparing for court.
- B. Recordings may also be reviewed, for official business, by:
- (1) The recording deputy's direct supervisor, and the highest ranking on-duty supervisor.
 - (2) A Sheriff's Office supervisor at the rank of Lieutenant or above, for official business, including, but not limited to:
 - (a) The review of evidence.
 - (b) An official investigation such as a personnel complaint, administrative inquiry, or a criminal or civil investigation.
 - (c) Assessing training value.
 - (3) Designated Information Technology Specialists.
 - (4) The Accreditation manager or their designee.
- C. Deputies are not permitted to view another deputy's recording(s) except for a work-related reason which is authorized by a supervisor at the rank of Lieutenant or above.
- D. A supervisor at the rank of Lieutenant or above must review the BWCS recording of an incident when:
- (1) A deputy is involved in a reportable use of force incident.
 - (2) A deputy is injured during the performance of his or her duty.
 - (3) A complaint is filed concerning the deputy's actions.
- E. An electronic log will be automatically generated by the BWCS software to document access to, copying or distribution of all recordings. The log will include the: **(41.3.8.g)**
- (1) Name of the employee accessing the recording;
 - (2) Reason for access;
 - (3) Date recording was accessed;

- (4) Length of time it was reviewed;
 - (5) Any copying or editing;
 - (6) Person to whom the recording was distributed; and
 - (7) Supervisor authorizing access to the recordings.
- F. A BWCS recording of a constitutionally protected activity may not be used to identify persons present at the activity who are not suspected of being engaged in illegal activity or in need of assistance.
- G. The stored video and audio data from a BWCS recording may not be:
- (1) Used to create a database or pool of mug shots;
 - (2) Used as fillers in photo arrays; or
 - (3) Searched using facial or voice recognition software. However, this does not prohibit the use of recognition software to analyze the recording of a particular incident when a sworn supervisor has reason to believe that a specific suspect or person in need of assistance may be a subject of a particular recording.
- H. Employees must not access, obtain, attempt to obtain, copy or convert for their personal use, any recording produced by a BWCS. Except as authorized by the Sheriff, employees must not:
- (1) Upload BWCS recordings to public and/or social media websites or,
 - (2) Share the recordings for any private, non-work related purpose.
- I. Except as authorized by the Sheriff or designee, employees must not copy, delete, alter, release, reuse, modify, share or tamper with BWCS recordings or data in any manner.
- J. A deputy will have access to their BWCS recording that is directly related to any administrative or formal internal investigation, complaint investigation, criminal investigation or civil suit where the deputy is named as a defendant. The deputy will have the ability to review their BWCS recording of the subject incident prior to making a statement.
- K. In an Administrative investigation, access to incident related BWCS recordings will be granted at least five (5) days prior to being interrogated.
- L. The Montgomery County State Attorney's Office (SAO) has access to the Montgomery County Sheriff's Office Evidence.com site for official purposes.

IX. Retention of Data (41.3.8.d)

A. All law enforcement related BWC data will be retained pursuant to the following schedule.

1	Uncategorized	30 Weeks	No Restrictions
2	0100 Homicide	50 Years	No Restrictions
3	0200 Rape	50 Years	No Restrictions
4	0300 Robbery	7 Years	No Restrictions
5	0400 Aggravated Assault	7 Years	No Restrictions
6	0500 Burglary	7 Years	No Restrictions
7	0600 Larceny - Felony	7 Years	No Restrictions
8	0600 Larceny - Misdemeanor	3 Years	No Restrictions
9	0700 Auto Theft	7 Years	No Restrictions
10	0800 Assault	7 Years	No Restrictions
11	0900 Arson	7 Years	No Restrictions
12	1000 Forgery-Counterfeiting (Credit/Identity)	7 Years	No Restrictions
13	1400 Vandalism	3 Years	No Restrictions
14	1500 Weapons	3 Years	No Restrictions
15	1700 Sex Offenses - Felony	7 Years	No Restrictions
16	1700 Sex Offenses - Misdemeanor	3 Years	No Restrictions
17	1800 CDS Laws - Felony	7 Years	No Restrictions
18	1800 CDS Laws - Misdemeanor	3 Years	No Restrictions
19	1900 Gambling	3 Years	No Restrictions
20	2000 Family Offenses	7 Years	No Restrictions
21	2100 Juvenile Offenses	3 Years	No Restrictions
22	2200 Liquor Law Violations	3 Years	No Restrictions
23	2300 Contributing	3 Years	No Restrictions
24	2400 Disorderly Conduct	3 Years	No Restrictions
25	2600 Suicide	3 Years	No Restrictions
26	2715 Blackmail/Extortion	7 Years	No Restrictions
27	2726 Kidnapping	7 Years	No Restrictions
28	2812 DUI/DWI	3 Years	No Restrictions
29	4000 Traffic Collisions-MCSO Vehicle Only	3 Years	No Restrictions

30	4300 Traffic Collisions-MCSO Vehicle (Fatal)	7 Years	No Restrictions
31	5000 Traffic Collision	3 Years	No Restrictions
32	5300 Traffic Collision (Fatal)	7 Years	No Restrictions
33	All Other Evidentiary Recordings	3 Years	No Restrictions
34	All Other Non-Evidentiary Recordings	30 Weeks	No Restrictions
35	Attachment/Seizure	3 Years	No Restrictions
36	CEW Device Logs	7 Years	No Restrictions
37	Duress Alarm	3 Years	No Restrictions
38	Emergency Evaluation Petition	3 Years	No Restrictions
39	Eviction	3 Years	No Restrictions
40	OIS/In Custody Death (Secondary Category)	Until manually deleted	No Restrictions
41	Peace Order	3 Years	No Restrictions
42	Pending Review	30 Weeks	No Restrictions
43	Potential Complaint (Secondary Category)	3 Years	No Restrictions
44	Prisoner Transport	3 Years	No Restrictions
45	Protective Order	3 Years	No Restrictions
46	Restricted	Until manually deleted	Restricted Category
47	Traffic Stop (No Arrest)	3 Years	No Restrictions
48	Training Demo	30 Weeks	No Restrictions
49	Unintended Recording	Until manually deleted	Restricted Category
50	Use of Force	3 Years	No Restrictions
51	Warrant Service	3 Years	No Restrictions

- B. All original BWCS recordings are the property of the Montgomery County Sheriff's Office and will be securely stored and retained according to the retention schedule and consistent with state law and existing evidence protocols, unless a specific request is made to store them for a longer period of time by a person authorized by the Sheriff.
- C. BWCS recordings that can be used in an investigation or captures a confrontational encounter between a deputy and a member of the public will be deemed "evidentiary" and categorized and tagged according to the type of incident. Recordings that do not contain evidence or capture routine, non-confrontational encounters will be deemed "non-evidentiary".

- D. Non-evidentiary recordings will not be retained longer than established by the Sheriff's Office retention schedule, unless the Sheriff or designee deems it necessary to retain the recording.
- E. If a deputy activates a BWCS generating a recording of a prohibited use or that is not a law enforcement related encounter or activity, the deputy must notify his or her supervisor promptly. Recordings deemed by the Sheriff to have been recorded inadvertently and have no legitimate purpose to the Sheriff's Office, will be deleted promptly. An appropriate log entry will be created documenting the reason for the deletion of the data.

X. Release of BWCS Recordings and Data

- A. The release of BWCS recordings and data will be conducted in accordance with applicable public records laws, civil/criminal discovery rules and court process.
- B. The release of recordings of a deputy's death or injury is not permitted, unless there is a compelling law enforcement related reason to release the recording or in situations where the release of these recordings is required by law.
- C. Recordings may not be disseminated without written permission from the Sheriff or his designee.
- D. The redaction of the BWC data will be conducted by a Sheriff's Office employee designated by the Sheriff, an approved contractor or an approved employee of the Montgomery County Department of Police.
- E. BWC data that is released pursuant to a Freedom of Information Act (FOIA) request must be reviewed by the Assistant Sheriff of Administration prior to dissemination. This review is intended to ensure that proper redactions have been made with respect to non-involved or otherwise protected parties.

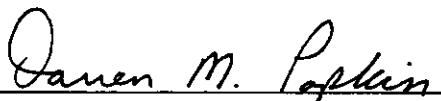
XI. Cancellation

This General Operational Procedure cancels and replaces General Operational Procedure 3.51, effective date 03/23/17.

XII. CALEA Standards

41.3.8.a, 41.3.8.b, 41.3.8.c, 41.3.8.d, 41.3.8.e, 41.3.8.f, 41.3.8.g

AUTHORITY:



 Darren M. Popkin, Sheriff
 10/18/2017

PS COMMITTEE #1
February 25, 2019
Update
ADDENDUM

M E M O R A N D U M

February 25, 2019

TO: Public Safety Committee

FROM: Susan J. Farag, Legislative Analyst 

SUBJECT: **ADDENDUM: Update: Sheriff Body Camera Program**

PURPOSE: To receive update on the body-worn camera program.

Today, the Committee is receiving a briefing on the Sheriff's body-worn camera program. This addendum includes a memo update from Chief Deputy Mark Bonanno regarding the Sheriff's Office experience to date (©1). It also includes data about the number of cameras provided, total users, how much video has been uploaded, and how often video has been shared (for the State's Attorney's Office, external investigations, and court presentations) (©2-3).



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Sheriff's Office



50 Maryland Avenue
Rockville, Md. 20850
240-777-7000
240-777-7148 Fax

SHERIFF DARREN M. POPKIN

MEMORANDUM

February 22, 2019

To: Public Safety Committee

From: Chief Deputy Mark Bonanno

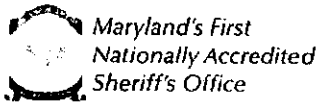
Subject: Update on MCSO Body-Worn Camera System

The Sheriff's Office began its original pilot of the Axon body-worn camera system (BWCS) on April 1, 2017. This was an initial six-month pilot program involving 10 deputies from various sections throughout the office. At the conclusion of this pilot program, Axon offered a nationwide one-year pilot program to any law enforcement agency at no cost. The Sheriff's Office began the one-year program on November 1, 2017 and concluded it on October 31, 2018. All Deputy Sheriff's from the rank of DSI through Lieutenant participated. Each deputy was issued (2) Axon body-worn cameras, to allow for uploading of videos and charging of the battery.

As with any new piece of equipment there has been a learning curve in adapting to the BWCS. The deputies, however, have embraced using the BWCS equipment and understand that this is the future of law enforcement as it provides for better transparency and accountability. In addition, all Deputy Sheriff Candidates are trained in the operation of the BWCS at the Montgomery County Public Safety Academy where they train alongside Montgomery County Police Candidates. This allows for consistency among the Montgomery County law enforcement agencies.

All videos upload to Axon's evidence.com, which is the manufacture's cloud-based data storage platform. Evidence.com allows for the sharing of videos between the Sheriff's Office, the Police Department and the States Attorney's Office.

(1)



50 Maryland Avenue
 Rockville, Maryland 20850
 240-777-7000
 FAX 240-777-7148

SHERIFF DARREN M. POPKIN
Montgomery County Sheriff's Office
Body Worn Camera Data
Evidence.com

Evidence.com users

152 Sworn
 18 State's Attorney's Office
 2 Administrators

Body Worn Camera Users and Equipment

146 Deputies Issued Body Worn Cameras
 292 Body Worn Cameras Issued
 31 Docks Available for Camera Uploads

Active Body Worn Camera Data

32,699 Total Active Videos
 4,889 Total Hours of Video Uploaded
 4.75 TB Total Capacity of Videos Uploaded

Sharing of Body Worn Camera Data

281 Total Video Downloads or Shares
 164 Total Video Downloads by State's Attorney's Office
 85 Total Video Downloads or Shares for External Investigations and Court Presentations.

Official Beginning of Body Worn Camera Program - November 1, 2018 - Present

6,947 Total Videos Uploaded
 1,153 Total Hours of Video Uploaded
 1.10 TB Total Capacity of Videos Uploaded

443 Total Videos Deleted
 61 Total Hours of Video Deleted
 57 GB Total Capacity of Videos Deleted

6,504 Net Total Videos Uploaded
 1,092 Net Total Hours of Video
 1.07 TB Net Capacity of Videos Uploaded

Official Beginning of Body Worn Camera Program - Monthly Average

1,960 Total Videos Uploaded per Month
 323 Total Hours of Video Uploaded per Month
 307 GB Total Capacity of Videos Uploaded per Month

148 Total Videos Deleted per Month
 20 Total Hours of Video Deleted per Month
 19 GB Total Capacity of Videos Deleted per Month

1,812 Net Total Videos Uploaded per Month
303 Net Total Hours of Video per Month
288 GB Net Capacity of Videos Uploaded per Month

Axon One Year Field Trial Pilot Program - November 1, 2017 - October 31, 2018

24,848 Total Videos Uploaded
3,715 Total Hours of Video Uploaded
3.55 TB Total Capacity of Videos Uploaded

1,882 Total Videos Deleted
237 Total Hours of Video Deleted
224 GB Total Capacity of Videos Deleted

22,966 Net Total Videos Uploaded
3,478 Net Total Hours of Video
3.33 TB Net Capacity of Videos Uploaded

Axon One Year Field Trial Pilot Program - Monthly Average

2,071 Total Videos Uploaded per Month
310 Total Hours of Video Uploaded per Month
296 GB Total Capacity of Videos Uploaded per Month

157 Total Videos Deleted per Month
20 Total Hours of Video Deleted per Month
19 GB Total Capacity of Videos Deleted per Month

1,914 Net Total Videos Uploaded per Month
290 Net Total Hours of Video per Month
277 GB Net Capacity of Videos Uploaded per Month

Initial 10 Deputy Axon Pilot Prior to One Year Field Trial - April 1, 2017 - September 30, 2017

2,010 Total Videos Uploaded
361 Total Hours of Video Uploaded
345 GB Total Capacity of Videos Uploaded

0 Total Videos Deleted
0 Total Hours of Video Deleted
0 GB Total Capacity of Videos Deleted

2,010 Net Total Videos Uploaded
361 Net Total Hours of Video
345 GB Net Capacity of Videos Uploaded