
Body Worn Cameras

435.1 PURPOSE AND SCOPE

The Santa Ana Police Department recognizes that audio and video recording of contacts between Department members and the public can provide an objective record of these events. The use of a recording system assists Department personnel in the performance of their official police duties by providing a record of enforcement and investigative contacts. A recording of an event or contact assists the Department in evaluating and improving Department practices, tactics, strategy, officer training and safety practices, and community policing objectives.

The Department provides Body Worn Cameras (BWC) to its members for use while on- duty. The primary purpose and objective of the BWC Program is to collect evidence for use in criminal investigations, including identifying and apprehending offenders and obtaining, collecting, and preserving evidence for use in criminal prosecutions. These recorders will also assist members in the performance of their official police duties by providing audio and video records of contacts. Except as provided in this policy, all enforcement and investigative contacts, as well as all contacts specifically related to a call for service, will be recorded to collect evidence for use in criminal investigations, including identifying and apprehending offenders, and obtaining, collecting and preserving evidence for use in criminal prosecutions. These recordings will also promote accountability and enhance public trust and confidence in the actions of Department members.

While recordings obtained from a BWC provide an objective record of these events, it is understood video recordings captured by a BWC (or any recording device) do not necessarily reflect the experience or state of mind of the individual employee(s) in a given incident. Further, video cameras generally record only a portion of an incident, may lack the context of the event and may not faithfully record light levels leaving out significant aspects of an incident. Also, video is a two-dimensional representation of an incident from a particular perspective that may distort distance and other factors associated with depth of field. A video recording has limitations and may depict events differently than the events recalled by the involved employee and does not present the incident as viewed through human eyes. Differences between human and mechanical processing of information prevent a video from exactly matching what a person sees and hears during a critical confrontation. These differences have to do with field of view, focus of attention, and interpretation. It is understood the BWC may capture information that may not have been heard and/or observed by the involved employee and may not capture information observed by the employee.

435.2 DEPARTMENT PERSONNEL RESPONSIBILITIES

Prior to going into service, each employee trained to operate and issued a BWC is responsible for ensuring that the BWC is in proper working order by inspecting and testing the BWC. Personnel assigned to field and enforcement duties during regular and extra duty assignments shall wear

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the BWC on their person in a forward facing position above the midline torso to maximize the recording field of view.

Personnel are required to upload their digital audio/video files at the end of each work shift, unless otherwise approved by a supervisor. Recordings made at extra duty events will be uploaded on or prior to the employee's next work shift unless otherwise approved by a supervisor.

POLICY EXCEPTIONS Exclusive to Motor Officers and Canine Officers ONLY:

Motor Officers and Canine Officers may, at minimum, intermittently upload their BWC footage once per on-duty work week, or as their respective workloads permit during any given shift. On the last day of their respective work week, a Motor Officer or Canine Officer may find it necessary to leave their issued BWC docked at the station for proper uploading and charging, and shall resume normal operation on their first day back to work. No Motor Officer or Canine Officer shall go for more than one (1) on-duty work week without uploading BWC footage. Supervisor approval is not necessary for this exception. A supervisor may reasonably check for policy compliance not to be considered an audit.

The BWC is the responsibility of the employee and will be used with reasonable care to ensure proper functioning and reliability. When an employee determines a BWC is not in proper working order, the employee shall notify a supervisor as soon as practicable to obtain a replacement BWC. The employee shall also send an email to the BWC Coordinator so arrangements for immediate replacement can be made. If the BWC Coordinator is not available for immediate replacement, the affected officer (regardless of officer/unit assignment) will immediately report to the on-duty watch commander for temporary issuance of a loaner BWC. At no time will any officer go into the field to conduct law enforcement duties or investigative services, including overtime assignments at special events without a BWC.

435.2.1 ADDITIONAL DEPARTMENT PERSONNEL RESPONSIBILITIES

Members working plain-clothes assignments may utilize a department issued BWC when they believe such a device may be beneficial and in accordance with this policy. All non-uniformed personnel who are engaging in pre-planned enforcement activities such as serving a search or arrest warrant or conducting or participating in parole/probation searches shall utilize a BWC, unless the use of the BWC unreasonably compromises the identity of undercover officers or jeopardizes tactics or if the officer/detective is assigned to an outside Multi-Agency Task Force. Officers not wearing a BWC during search/arrest warrants and parole/probation searches must have prior approval from a manager at the rank of Commander or higher.

Field Training Officers will be responsible for ensuring their assigned trainee is recording all contacts in accordance with this policy.

435.3 IDENTIFYING INFORMATION REQUIRED FOR RECORDINGS

To ensure proper incident tagging of BWC footage via CAD (Computer Aided Dispatching) integration, officers shall notify dispatch of all activity, or self-assign an incident via their unit's

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mobile computer unless doing so would compromise their immediate personal safety or the safety of others. In cases where CAD is inoperable or a Motor Officer elects to tag their own recordings, officers shall minimally include the following basic information:

- (a) CI or CAD Incident number in the following format: "SAPD 16-99999", "P5219374", etc.
- (b) Type of incident: "Traffic stop", "Call for service", etc.

435.4 ACTIVATION OF BODY WORN CAMERAS

Department personnel are required to activate the BWC to record any general duties, investigative or enforcement-related contacts or activity. BWC activation shall begin prior to arriving at a call or initiating enforcement action and shall terminate the recording once the involved officer has cleared the call that initiated activation. At no time is any officer expected to compromise their immediate personal safety or the safety of others for the purpose of activating their BWC. BWC activation includes, but are not limited to: traffic or vehicle stops, pedestrian stops (including officer-initiated consensual encounters), calls for service, covering another city employee or law enforcement officer during an enforcement contact, field interviews, Code-3 responses (including vehicle pursuits), foot pursuits, consensual encounters (including consensual encounters in which the member is attempting to develop reasonable suspicion concerning the subject of the encounter), detentions, arrests, searches (including searches involving the use of a K-9), a Fourth Amendment waiver search or a consent search in which the officer is looking for evidence or contraband, use of force, encounters with persons present at calls for service who are accused of crimes, prisoner transportation, crowd management and control involving enforcement or investigative contacts, interviews (of suspects, victims, and witnesses), and any contact with members of the public that become adversarial or confrontational. These events shall be recorded without interruption unless an exception outlined in this policy occurs. Officers may, but are not required to, advise members of the public that a recording is in progress.

In the event a Public Safety Statement is required as part of an Officer-Involved Shooting ("OIS") or investigation of a critical incident, the Supervisor ordering a Public Safety statement shall activate his/her BWC and notify the involved officer that their statement is being recorded. The Public Safety Statement shall include questions included in the Officers Index and/or the Public Safety Statement checklist.

When a member believes it is necessary and feasible to interrupt a recording before the end of the contact or activity, he/she should verbally indicate the intent to stop the recording, and upon reactivation, state that he/she has restarted the recording. This interruption and the underlying reasoning shall be documented in the police report. The recording will continue until contact with the member(s) of the public ends as a result of, but not limited to, the following circumstances:

- (a) The completion of the booking process and any suspect interview(s), if the contact ended in arrest or juvenile detention

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- (b) If a subject being detained or arrested is in a holding facility, jail or hospital the officer may temporarily interrupt recording during periods when he/she is out of contact with the subject
- (c) The member has completed his/her contact or activity and is no longer interacting with the involved member(s) of the public
- (d) A recording exception allowed by this policy occurs

In the event a member is unable to activate his/her BWC as directed above, or in any instance during which a member determines a BWC cannot or should not be used, he/she shall document the reason why the BWC was not used in the accompanying police report. If no report has been generated, the member will document the circumstances in the incident's CAD history. If no CAD history was created for the incident, the member shall create one and document the circumstances in the incident's CAD history.

435.4.1 EXCEPTIONS TO ACTIVATION

Residents have a reasonable expectation of privacy in their homes. However, when peace officers are lawfully present in a home (warrant, consent, exigent circumstances) in the course of official duties, there is no reasonable expectation of privacy, and recording is lawful. If a resident objects to the BWC recording inside their private residence, the officer may turn off the device in accordance with this policy after considering the totality of the circumstances. Before terminating a recording for reasons of privacy or other concerns, the officer shall at a minimum document the reasons for not recording in accordance with this policy.

Circumstances when a BWC may not be used include, but are not limited to:

- (a) Officer safety would be compromised due to an unexpected or sudden altercation.
- (b) A health care provider is discussing medical issues with a patient and there is no immediate safety risk to the officer.
- (c) While in the hospital for the sole purpose of waiting for an arrestee to be medically cleared and there is no immediate safety risk to the officer.
 - 1. However, the BWC should be turned on in the hospital if a situation arises which requires police action
- (d) While the officer is on break or otherwise engaged in personal activities or when the officer is in a location where there is a reasonable expectation of privacy, such as a restroom, locker room, or dressing room or during briefings, meetings or roll calls
- (e) During encounters with undercover officers or confidential informants
- (f) For officer safety, when officers are handling, reviewing, or discussing an operational plan, conducting undercover surveillance or discussing, developing, planning or engaging in police/investigative tactics or strategies during a pending investigation.

435.4.2 DEMONSTRATIONS

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- (a) As a general policy, Department personnel should refrain from video recording or photographing peaceful demonstrations.
- (b) When there is a reason to believe a planned event has the potential for unlawful activity, Commanding Officers should make the determination whether visual recording or photographing is appropriate.
- (c) During demonstrations, officers should operate cameras in buffering/stand-by mode. If officers witness crimes occurring among the demonstrators, and/or believe an arrest is likely, they should begin recording in Event mode.

435.4.3 ACTIVATION BY CRIME SCENE INVESTIGATORS (CSI)

Personnel within the Crime Scene Investigations Unit (CSI) assigned to the field shall activate their assigned BWC when:

- (a) Obtaining consent or refusal to recover any evidence from a person (DNA, buccal swab, fingerprints, clothing, hair sample, photos of tattoos, etc.). Footage capturing verbal consent or refusal shall serve in lieu of the SAPD Consent to Search Form.
- (b) Capturing the initial walkthrough of a crime scene or an administrative investigation.
- (c) Recovering any items of value or notable significance (cash, narcotics, jewelry, equipment, etc.).
 - 1. At the discretion of the CSI officer, capturing footage may cease once evidence is sealed or secured.

EXCEPTIONS TO ACTIVATION FOR CSI INVESTIGATORS

- (a) CSI investigators are not required to activate their assigned BWC when:
 - 1. Recovering evidence pursuant to a search warrant or when recovering sensitive evidence from a victim's breasts, genital area, buttocks, or any anatomically bare area deemed sensitive by a CSI investigator or at the request of the individual from whom the sample is being recovered.
 - 2. After the initial walkthrough, when recovering crime scene evidence as it may take several hours beyond the BWC battery capability.

435.5 SURREPTITIOUS RECORDINGS

Penal Code § 632 prohibits an individual from surreptitiously recording a conversation in which any party to the conversation has a reasonable belief the conversation is private or confidential; however, Penal Code § 633 expressly exempts law enforcement officers from this prohibition during the course of a criminal investigation in which the officer reasonably believes that such a recording will be for lawful investigative purpose. The following requirements shall apply:

- (a) No member of this department may surreptitiously record a conversation of any other member of this department without the express knowledge and consent of all parties
- (b) A sworn member of this department may surreptitiously record any conversation during the course of a criminal investigation if the officer reasonably believes that such a recording will be beneficial to the investigation

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1. Any officer contacting an individual suspected of violating any law or during the course of any official law enforcement related activity is presumed to be engaged in a criminal investigation.

435.6 PERSONAL USE

Employees shall not use a department-issued BWC for personal use. Employees shall not use a personal BWC during their official duties.

435.7 STATEMENTS AND REPORTING

All recorded victim, witness and suspect statements, as well as any other evidence specifically recorded, shall be documented as evidence in the corresponding police report. BWC footage shall not replace a thorough report documenting any statement from a victim, witness, arrestee, or juvenile detainee.

To assist in retrieval of a recorded statement for prosecution purposes, report narratives describing these statements shall include:

- (a) If the statement or evidence was recorded
- (b) If the statement or recording was uploaded (booked) as evidence
- (c) By whom it was recorded
- (d) Time and date of the recording

Whenever any employee believes a particular contact may lead to a citizen complaint, he/she should bring the contact to the attention of their supervisor or their Watch/Division Commander.

435.8 RETENTION OF BODY WORN CAMERA MEDIA FILES

Recorded media uploaded to Evidence.com will be retained according to the BWC footage retention schedule (see BWC Retention Procedure) Inadvertent/accidental recordings of personal events and conversations shall be purged as soon as practicable upon the approval of a Watch/Division Commander or the BWC Program Coordinator or the Assistant to the BWC Coordinator.

Officers and employees shall not edit, alter, erase, duplicate, copy, share, record, or otherwise distribute in any manner BWC images and information without the prior approval of the Chief of Police or his/her designee. Officers and employees shall not remove, dismantle or tamper with any hardware or software components of the BWC system unless for purposes of maintenance, repair, upgrade, or replacement and only at the direction of the Body Worn Camera Coordinator or the Assistant to the BWC Coordinator. Personal computer equipment and software programs shall not be utilized when making copies of the BWC data or files. Using a secondary device such as a video camera, cell phone, or any other electronic device to record or capture BWC data or files is strictly prohibited.

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435.9 REVIEW OF BODY WORN CAMERA MEDIA FILES

Unless prohibited by applicable law, recorded files may be reviewed on designated Department equipment only, in any of the following circumstances:

- (a) By the officer who originally recorded the incident.
 - 1. With prior supervisory approval at the rank of sergeant or above, an employee may review another employee's recording, provided the other employee was also directly involved in the incident in question.
- (b) By a supervisor reviewing or investigating a specific incident involving a member of this department and for which he/she can articulate a reason for review
- (c) By members of the City Attorney's Office or City Risk Management in connection with litigation or anticipated litigation, or for other official purposes
- (d) By a Department employee who is conducting an official investigation such as a personnel, administrative or criminal investigation
- (e) Pursuant to the law, lawful process, or by court personnel otherwise authorized to view evidence in a related case
- (f) At the discretion of the Chief of Police, members of the Major Incident Review Team or Shooting Review Board may review recordings to assess a critical incident, administrative investigation, use of force review or other internal review
- (g) If an employee is the subject of a disciplinary investigation, the employee shall have the option of reviewing his/her BWC recording(s) in the presence of his/her attorney or labor representative. The employee shall also be allowed to review recordings from other BWC's capturing the employee's image or voice during the underlying incident
- (h) In conjunction with department-approved training
- (i) Supervisors should review BWC recordings to assist in investigating and/or resolving citizen complaints. Supervisors have discretion to show BWC recordings to a complainant when it relates to his or her complaint, to assist in clarifying the complaint, resolving the complaint, or having the complaint withdrawn

Subject to the provisions of this policy, the Chief of Police or his/her designee has the discretion to prohibit the review of any recordings by Department employees if it is determined to be in the best interest of the Department or the City.

435.10 AUDITS

As directed by the Chief or the Chief's designee, the BWC program shall be audited according to the Monthly-Randomized BWC Audits by Supervisors Procedure. These audits will also ensure compliance with operational, retention, and security policies and procedures.

Commander's Responsibilities

- (a) Commanders whose personnel have been issued BWC's are required to conduct monthly audits at the direction of the affected Deputy Chief. The audits will ensure the BWC's are being used in compliance with this policy.

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- (b) Commanders will conduct random audits on a monthly basis in accordance with the Monthly-Randomized BWC Audits by Supervisors Procedure.

435.11 MEDIA FILE STORAGE, RETENTION, AND RELEASE

Storage and transfer of media files (recordings) from Body Worn Camera recordings shall comply with the following provisions:

- (a) Only members designated by the BWC Program Coordinator may transfer or copy recordings onto any third party media storage device. These devices include but are not limited to: Compact discs, floppy disks, portable hard drives, memory sticks, thumb-drives, DVD's, or other electronic media devices.
- (b) Only the BWC Program Coordinator may produce, reproduce or modify recordings for production in response to a subpoena, Public Records Act request or other official request.
- (c) All recordings are considered official Department records and shall not be shared with any person not having authorization to access the files as part of his/her official duties, or otherwise authorized by law.
- (d) Digital files may not be deleted by any person from the recording device or the archival storage media without the authorization of the Chief of Police or the BWC Program Coordinator.
- (e) At the discretion of the Chief of Police, recorded files may be viewed or released outside the organization, if he/she determines it is in the best interest of the Department or the City. When appropriate, involved employees should be notified before viewing or release.
- (f) At the discretion of the Chief of Police or the BWC Coordinator, or his designee, footage may be shared via an Evidence.com link with an allied law enforcement agency charged with investigating an incident.
- (g) At the discretion of the Chief of Police, or his designee, footage may be shared via an Evidence.com link with an allied law enforcement agency charged with investigating an incident related to employee misconduct by of another law enforcement agency's employee.

Employees and supervisors may find it useful, and are encouraged, to review recordings of incidents in which they were involved when beneficial for the purpose of conducting a tactical debrief. When an incident is recorded which may be of value as a training aid for a broad section of the Department, the recording employee or that employee's supervisor should receive approval from their Division Commander to contact the Training Commander who will review the digital evidence to determine the value of the incident for training. If the Training Commander determines the incident would be an appropriate training aid, he/she shall first obtain approval from the Department Legal Advisor and from the involved employees' Bureau Commander(s).

435.11.1 RELEASE OF MEDIA FILES

Digital evidence captured by BWC shall be treated as an investigative record and handled pursuant to existing Department policies and procedures. A copy of a recording may only be

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released to a third party in response to a valid court order or by approval of the Chief of Police or his/her designee. All requests for BWC media files generated by the District Attorney, Attorney General's Office, Grand Jury, City Attorney and/or a Defense Attorney, sworn law enforcement officers of other municipal, state or federal agencies (FBI, U.S. Marshall, etc.) will be handled by the BWC Program Coordinator the Assistant to the BWC Coordinator assigned to BWC Discovery Unit. Requests for BWC media files generated by the U.S. Attorney may be handled by either the Career Criminal Apprehension Unit supervisor or the BWC Program Coordinator.

Requests for recordings in civil matters will be handled by the BWC Program Coordinator.

435.11.2 BODY WORN CAMERA DEVICE AS EVIDENCE

In unusual circumstances, the BWC device itself may be booked into evidence prior to any uploading of media storage. Unusual circumstances may include:

- Major or significant incidents
- At the direction of a Watch/Division Commander or above
- If data cannot be uploaded due to a mechanical or technological malfunction

If the BWC device is booked into evidence, established booking procedures shall be followed and documented in the accompanying police report. The booking officer shall notify the BWC Coordinator directly for immediate BWC footage recovery.

435.12 BODY WORN CAMERA PROGRAM COORDINATOR

The Department shall designate a Body Worn Camera Program Coordinator who has program oversight including, but not limited to:

- (a) Documenting system malfunctions and equipment failures related to Body Worn Cameras
- (b) Providing training to administrative and investigative staff regarding BWC use, media file retention, and confidentiality of video records
- (c) Maintaining digital video files and equipment in a secure and confidential environment
- (d) Ensuring media files are only released in accordance with Department/City Policy and applicable laws
- (e) Coordinating issuance of BWC devices.
- (f) Providing training and instruction to BWC users on device usage and operation
- (g) Providing department management recommendations on policy development and equipment integrity, to be reviewed annually.
- (h) Provide Deputy Chiefs with the monthly audit list on or about the 15th of every month

435.13 BODY WORN CAMERA DEVICE ISSUANCE

The BWC coordinator or the Assistant to the BWC Coordinator

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435.14 ASSISTANT TO THE BODY WORN CAMERA COORDINATOR

The Assistant to the Body Worn Camera Coordinator shall be responsible for the following duties, but not limited to:

- (a) Processing the daily requests pursuant to a BWC Discovery Request
- (b) Retaining period category changes of BWC Footage as requested by the Orange County District Attorney's Office
- (c) Assisting with and monitoring the day to day operations of the BWC Program
- (d) Assisting department personnel with the use and navigation of Evidence.com
- (e) Troubleshooting BWC equipment errors and failures
- (f) Assisting with the training of personnel in the use of BWC equipment and related systems