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## Body Worn Cameras

### 450.1 PURPOSE AND SCOPE

This policy provides guidelines on the implementation and deployment of body worn cameras (BWC) as well as the management, storage, retrieval and retention of the recordings. The use of BWCs promotes transparency, accountability for officers, and public confidence through objective evidence. The use of BWC can provide an objective record of the contact between Department personnel and members of our community. The digital records obtained from these devices can also complement personnel in the performance of their duties as it provides supplemental evidence of enforcement and investigative activities for enhanced criminal prosecutions and administrative investigations. Further, BWC recordings can assist the Department with assessing and improving organizational practices to ensure the delivery of quality police services.

The Department provides BWC to specified sworn personnel for use while on duty. Except as otherwise outlined in this policy, all public assistance, enforcement and investigative contact or activity, as well as all contacts specifically related to a call for service, will be recorded to collect evidence for use in criminal investigations. For the purposes of this policy, it is presumed that any contact as defined above is part of a criminal investigation. While these recordings will promote accountability and enhance public trust, they may also protect personnel from false allegations of misconduct and can be instrumental in the resolution of citizen complaints.

While recordings from BWC can provide an objective record of an event, it is understood that such recordings do not necessarily reflect the experience or state of mind of the individual employee(s) in a given incident. 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 may include but are not limited to the field of view, focus of attention, and interpretation. It is understood that 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.

### 450.2 BODY WORN CAMERA PROGRAM COORDINATOR AND DATA STORAGE

The Chief of Police or authorized designee shall appoint a member of the Department to oversee and coordinate the BWC program. Responsibilities of the BWC Program Coordinator include, but are not limited to:

- (a) Establishing a system for downloading, storing, and the security of recorded data.
- (b) Designating permissions of department personnel for operational and oversight purposes.
- (c) Coordinating with Technology Services and the Department BWC vendor(s) for maintenance and repair matters.
- (d) Ensuring the media files are retained and/or purged in a manner consistent with this policy, the City's record retention schedule, and current laws governing the use of BWC.

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- (e) Coordinating the issuance of BWC devices to designated personnel.
- (f) Providing training and instruction to BWC users on device and software operation.
- (g) Evaluating and continually assessing the BWC program to provide recommendations for policy or deployment modifications.
- (h) Coordinating with the City Attorney's Office for Public Records Requests.
- (i) Developing a procedure in conjunction with the Professional Standards section to conduct regular audits to ensure the BWC operations are being performed in adherence to this policy.

BWC data shall be stored in an online cloud database that has reliable, secure, and automated redundancies in place for system integrity. This platform will be managed by a third-party BWC vendor which provides internal audit trails to prevent unauthorized access or use of BWC data. The BWC Program Coordinator will be responsible for designating the permissions of each user, supervisor, and management staff.

### **450.3 DEPARTMENT PERSONNEL RESPONSIBILITIES**

Prior to going into service, each employee issued a BWC is responsible for ensuring it is in proper working order and fully charged with adequate storage to complete the employee's shift. Personnel assigned to field and enforcement duties, whether regular duty or overtime, shall wear the BWC on their person at all times in a forward facing position that facilitates a comprehensive recording of each contact.

Personnel shall upload their digital audio/video files at the end of each work shift unless otherwise approved by a supervisor. Personnel will also document the existence of any BWC recordings in any related reports.

As with other issued equipment, the BWC device is the responsibility of the assigned employee. It shall be used and maintained with reasonable care to ensure proper functioning and reliability. When an employee determines a BWC is not functioning properly, the employee shall notify a supervisor as soon as practical in order to obtain a replacement device.

Personnel are allowed to remove their BWC during their own personal restroom use.

### **450.4 ENTERING OF IDENTIFYING INFORMATION**

All employees utilizing BWC will be required to input specific identifying information to each recording prior to the end of the daily assignment via the designated digital evidence management software. All recordings shall include, at a minimum, the following basic information.

- (a) Computer Aided Dispatch (CAD) auto-generated number; must be entered in the following format 18-XXXXX.
- (b) Type of incident (i.e., "Traffic stop", "Call for service", "Use of force", etc.).

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### **450.5 ACTIVATION OF BODY WORN CAMERAS**

Personnel assigned a BWC device are required to activate it prior to any criminal investigation, as defined above. However, it is foreseeable that exigent circumstances may arise in which an officer does not have the time or ability to activate his/her device without sacrificing personal safety or the safety of others. In the event the officer is unable to activate the camera prior to the contact or activity, the officer shall activate the BWC as soon as practical in an effort to capture as much of the incident as possible. Personnel are reminded that the overarching goal of the BWC program is to obtain a complete and uninterrupted recording of the described encounters in order to depict an objective account of the entirety of each incident. Once activated, personnel shall not turn off their BWC device until directed by a supervisor or until they are entering their vehicle to leave the scene.

Details regarding the reasons for BWC deactivation shall be verbalized prior to BWC deactivation and downloaded pursuant to this policy.

Officers who fail to activate their BWC as required shall document in the related police report the reason why the device was not used. If no report has been generated, the reason and circumstances for not activating the BWC must be documented in the "remarks" section of the CAD call.

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

- (a) A health care provider is discussing medical issues with a patient.
- (b) While in the hospital for the sole purpose of waiting for an arrestee to be medically cleared. However, the BWC should be activated in the hospital if a situation arises which requires police action.
- (c) During encounters with confidential informants or citizen informants who request the BWC be deactivated before providing information.
- (d) Whenever it reasonably appears that the privacy of an individual being recorded may outweigh any legitimate law enforcement interest. Requests by members of the community to stop recording should be considered using this same criterion.

### **450.6 SURREPTITIOUS RECORDINGS**

Officers are encouraged to inform individuals that they are being recorded when feasible; however, officers are not required to obtain consent when they are lawfully in the area where the recording takes place. For example, an officer who lawfully enters a business or residence shall record any enforcement or investigative activity, as set forth above, and is not required to obtain consent from members of the public who may also be present.

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.

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- (a) Sworn personnel may surreptitiously record any conversation during the course of a criminal investigation, as defined above, if it is believed that such recording will be beneficial to the investigation.
- (b) No member of this Department may surreptitiously record any conversation of any other member of this Department without the expressed knowledge and consent of all parties, unless otherwise required by this policy. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code § 3303(g).

#### **450.7 STATEMENTS AND REPORTING**

All recorded statements from victims, witnesses, and suspects, as well as any other evidence specifically recorded, shall be documented as evidence in the corresponding police report. To assist with the retrieval of a recorded statement for prosecution purposes, report narratives shall include:

- (a) Whether a statement or video evidence was recorded,
- (b) Whether that digital evidence was uploaded, and
- (c) By whom it was recorded.

Whenever an employee believes a particular contact may lead to a citizen complaint, the employee should bring the contact to the attention of a supervisor or the Watch Commander as soon as practical.

#### **450.8 RETENTION OF RECORDINGS**

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incident involving a use of force by an officer.
- (b) Officer-involved shootings.
- (c) Incidents that lead to the detention or arrest of an individual.
- (d) Recordings relevant to a formal or informal complaint against an employee of the Department.

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

All other recordings should be retained for a period consistent with the requirements of the City's record retention schedule but in no event for a period less than 60 days, notwithstanding inadvertent or training recordings, which may be deleted by the BWC Program Coordinator at any time.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

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### **450.9 RELEASE OF AUDIO/VIDEO RECORDINGS**

Digital evidence captured by BWC shall be treated as an investigative record and handled pursuant to existing Department policies and procedures as well as applicable laws. The BWC Program Coordinator will be notified of all third-party requests, and no release will be permitted without the expressed authorization of the Chief of Police or authorized designee unless otherwise required by federal or state law.

When criminal charges are being sought in a case, all related recordings will be provided to the Kern County District Attorney's Office.

### **450.10 PROHIBITED USE OF BODY WORN CAMERAS**

Personnel are prohibited from using BWC devices for personal use and are prohibited from making personal copies of any recordings created while on-duty or while acting in their official capacity. Personnel shall not duplicate or distribute any recordings except for authorized legitimate Department business purposes. All such recordings are property of the Department and shall be retained in accordance with this policy.

### **450.11 REVIEW OF BWC RECORDINGS**

BWC recordings may be reviewed by designated personnel in the following circumstances.

- (a) By the officer who originally recorded the incident when the review is necessary for a legitimate law enforcement purpose. This includes prior to submitting a written report or verbal statement for criminal or administrative purposes.
  - 1. If an officer is involved in a critical incident, the officer shall not review his/her BWC recording until authorized by the assigned Investigation Division supervisor. Once authorized, the officer shall review his/her BWC recording and any other relevant BWC footage as deemed necessary and appropriate by the Investigations Division supervisor, prior to being interviewed. An officer may have an employee representative present during the review of the BWC recordings without the assigned detective or supervisor present.
- (b) BWC recordings may offer opportunities for training to Department personnel beyond the individual officer. With permission from the specific officer(s) recorded, and with approval of the Watch Commander or BWC Program Coordinator, BWC recordings may be shown in shift briefings or similar settings as a means to share the learning value and improve the quality of our public service across the organization. BWC recordings shall not be used by any Department member for the purpose of embarrassment, harassment, or ridicule.
- (c) By a third-party with the express permission of the Chief of Police or authorized designee.
- (d) Pursuant to the lawful process or by court personnel otherwise authorized to view evidence in a related case.
- (e) Upon approval by the BWC Program Coordinator, by any member of the Department who is participating in an official investigation such as a personnel complaint, administrative or criminal investigation, use of force review, or other internal review.

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- (f) By personnel of the City Attorney's Office or Risk Management in connection with current or anticipated litigation or for other official purposes.
- (g) By a supervisor reviewing or investigating a specific incident involving a member of this Department.

Officers are not required to play back BWC recordings to allow members of the public to review the video footage.