

Body Worn Camera Policy 449.

449.1 POLICY

The Santa Cruz Police Department shall provide designated peace officer personnel with body worn cameras (BWC) for use during the performance of their duties.

449.2 PURPOSE AND SCOPE

This Department procedure establishes guidelines for Department members using body worn cameras, and procedures for preserving the digital media in the video storage system in a department approved manner. This procedure applies to all Department members. The use of the BWC provides video and audio evidence for critical incidents, use of force, criminal and administrative investigations, and civil litigation.

449.3 DEFINITIONS

For purposes of this policy, the following terms are defined:

- A. "Critical incident" is any incident in which a law enforcement agency's personnel, acting under the color of authority, are directly involved in an incident where death or the substantial risk of death results.
- B. "Evidentiary data" refers to data of an incident that may be useful for investigative purposes including, but not limited to, a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter.
- C. "Non-evidentiary data" refers to data that does not necessarily have value to aid in an investigation or prosecution.
- D. "BWC System Administrator (BWC Administrator)" – A Police Department program administrator for video storage systems and BWC system and Video Storage System with full access to user rights, sets user access and parameters.
- E. "Evidence Transfer Manager (ETM)" - A portable multi-ported docking station installed in the police department. The ETM simultaneously recharges the BWC while uploading all digitally encrypted data from the device. The docking station then transfers the digitally encrypted data to Video Storage System.
- F. "Metadata" - Case numbers, Incident numbers and other descriptors used to identify digital evidence.

449.4 OPERATING PROCEDURES

Officer safety takes precedence over recording events. Officers shall follow existing officer safety policies when conducting enforcement stops as outlined in Department policies and procedures. Officer safety shall be the primary consideration when contacting citizens or conducting vehicle stops, not the ability to record an event.

Officers and supervisors assigned to uniform or enforcement duty who are trained to use a BWC will wear it all times while on-duty. Personnel shall position the BWC to facilitate the optimum field of view and may be worn on the chest, shoulder, collar, or duty belt with an authorized mounting system. Plainclothes officers are exempt from this policy unless they are knowingly conducting enforcement activity while in plainclothes. See section 449.6 for enforcement activity actions.

Personnel are responsible for ensuring that the BWC is charged and operable at the beginning of their shift. Officers will leave their BWC docked in an ETM at the end of their shift or during digital evidence transfer.

If a BWC is in need of repair, personnel will promptly notify their supervisors or BWC Administrator via e-mail and turn in their equipment for repair or replacement. The supervisor will provide the officer with a temporary replacement as needed. The inoperable equipment will be taken to BWC Administrator for repair as soon as possible. If the BWC Administrator cannot repair the unit, the BWC Administrator shall contact the manufacturer to facilitate the repair. Repair and replacement of damaged or nonfunctional BWC equipment is coordinated through the BWC Administrator and performed through an authorized service provider. This procedure will be followed for all BWC related equipment and accessories.

Personnel shall not deliberately remove, dismantle or tamper with any hardware or software component of the BWC system.

449.5 RECORDINGS

All recordings made by personnel are the property of the Santa Cruz Police Department. Personnel shall have no expectation of privacy or an ownership interest in the content of recordings or data. All data collected by BWC is considered to be a law enforcement investigatory record and exempt from disclosure under Government Code section 6254(f).

The following is prohibited:

- Unauthorized use, duplication or distribution of BWC data.
- Personal copies of official recordings.
- Re-recording data using personal devices.
- Posting of video or audio to any social networking or website.
- Unauthorized removal of the BWC or recordings from the work site.
- Use of the BWC for personal purposes.
- Use of personally owned video recording devices while on-duty.
- Activation of BWC in workplace locker rooms or restrooms.
- Recording conversations between employees or supervisors.
- Officers should not record undercover officers or confidential informants, absent supervisor approval under limited circumstances.

449.6 ACTIVATION OF THE BODY WORN CAMERA

Personnel shall not use a BWC to investigate, collect, maintain, use or share information regarding persons or groups solely because they are involved in constitutionally protected activity.

Personnel should not record individuals who are picketing, engaged in peaceful protests, or First Amendment protected speech/activities- unless the officer believes a violation of criminal law is occurring, may occur, or if the officer has direct interaction with a participant or third party to the event.

Personnel are not expected to jeopardize their safety or the safety of the public in order to activate a BWC.

Personnel shall activate the BWC at the beginning, or as soon as it is safe to do so, in the following situations:

- (a) Use of force
- (b) Arrest
- (c) Detention / citation
- (d) Resist, delay or obstruct an officer
- (e) Search
- (f) Vehicle or foot pursuit
- (g) Emergency vehicle response
- (h) Any call for service involving a crime where the recorder may aid in the arrest and/or prosecution of a suspect:
 - (1). Domestic Violence Calls
 - (2). Disturbance of the peace calls
 - (3). Offenses involving violence or weapons
 - (4). Victim/witness statements involved in a use of force incident.
- (i) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Recordings obtained under this section are considered evidentiary data.

Personnel shall document the use of a body worn camera in their written report.

Emergency Services Unit (ESU) personnel who are engaged in an active ESU operation shall defer to the ESU Commander or Incident Commander for direction on the activation of BWC's to avoid recording strategy or tactical related discussions or operations.

449.7 DEACTIVATION OF THE BODY WORN CAMERA

Once activated, the BWC shall remain on continuously until the employee's direct participation in the recorded event is complete.

If a BWC is not activated during an enforcement encounter, or a recording is terminated prior to the end of an encounter, the reason(s) shall be documented in a report concerning the incident. If an incident report is not applicable, personnel shall note the reason(s) for the early termination during the tagging process.

If the BWC is in use during an enforcement situation and it becomes necessary to discuss issues or concerns with another law enforcement officer or supervisor in private, the BWC may be turned off. The intention to stop the recording should be verbally noted

before switching the device off. When the private conversation has ended, the BWC recording may resume. Situations that may warrant stopping the recording include, but are not limited to:

- (1) Officers discussing investigative strategy;
- (2) Officers discussing tactical plans;
- (3) Officers obtaining information from confidential informants or reluctant witnesses.

Officers may stop recording when the arrestee is cooperative and safely secured inside a police car or law enforcement facility. If an arrestee becomes uncooperative, or if there is some evidentiary purpose, officers should resume recording. If an officer resumes recording, the camera shall continue recording until the officer no longer has contact with the subject.

449.8 DOWNLOAD RECORDINGS

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. In the case of a delay, Metadata should be added as soon as possible.

Personnel shall download data from the BWC into an ETM by the end of each shift. Personnel who are unable to complete the download shall immediately notify a supervisor.

449.9 REVIEW OF RECORDINGS

Personnel may review their own recordings for the following reasons:

- (a) To prepare official reports.
- (b) To prepare for court testimony or other legal processes.
- (c) To prepare for an administrative interview.
- (d) For training purposes as outlined in section 449.11.

Digital evidence captured by the BWC is not all-inclusive. The system captures a less broad and less detailed image than the totality of the human senses. An officer's recollection of specific details may be different than what is captured in digital evidence. Officers should review digital evidence prior to completing reports when necessary to ensure accuracy. Officers are encouraged to review digital evidence prior to providing testimony at hearings, trial, administrative investigations, or depositions.

Detectives are responsible for reviewing, updating and tracking digital evidence associated with their assigned cases.

449.10 SUPERVISOR REVIEW OF RECORDINGS

It is NOT the intent of the Department to review digital evidence for the purpose of general performance review, for routine preparation of performance reports, or to discover policy violations.

Supervisors shall review recordings involving the use of force before approving reports involving the use of force. Instances such as the simple application of a control hold to overcome minor resistance or a foot pursuit "flee only" do not require a supervisor's investigation and the supervisor is not required to review BWC video related to these cases. Supervisors may review recordings and data to assist in resolving a matter of fact, to investigate a formal or informal complaint or possible misconduct, or for training.

In those circumstances that involve a formal or informal complaint or possible misconduct, the supervisors shall tag the recording via Metadata for two-year retention and notify the patrol lieutenant.

Investigators conducting a criminal or administrative investigation shall:

- (a) Advise the System Administrator to restrict access to the recording to the lead investigators.
- (b) Document the reason for access by entering the case number or reason for access in the comment field.
- (c) Review the recording to determine if the recording is evidentiary data and tag it appropriately for retention.
- (d) Direct the System Administrator to modify access restrictions appropriately when the matter is resolved.

449.11 USE OF BODY WORN CAMERA FILES FOR TRAINING

A Deputy Chief may authorize the use of BWC recordings for training.

If an involved officer objects to showing a recording, his/her objection will be submitted to the Deputy Chief to determine if the training value outweighs the officer's objection. Employees desiring to view any previously uploaded or archived BWC recording should submit a request in writing to the Watch Commander. Approved requests should be forwarded to the System Administrator for processing. In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

Training video's that do not involve an arrest of a person for a misdemeanor or felony crime shall be reviewed for redaction of involved party's faces or identifying information. In the event that the training video depicts a person who is in medical crisis and no crime is involved, the person's image shall be redacted in order to avoid embarrassment or HIPPA violations of the detained/contacted individual.

449.12 CRITICAL INCIDENTS

Personnel involved in critical incidents shall immediately notify the responding supervisor of any recordings of the critical incident. The supervisor shall take immediate physical control of the BWC, download the recording as soon as practical and assign the recording via Metadata to the Critical Incident category for permanent retention.

Personnel who are involved in any critical incident shall be permitted to view their recording prior to providing a formal statement or written report. Personnel may consult with legal representation prior to viewing their recordings. Before personnel view the recording, they shall be provided the following admonishment verbally and in writing:

"In this case, there is video evidence that you have the opportunity to view before you give your initial statement. Video evidence has limitations and may depict the events differently than you recall, and may not depict all of the events as seen or heard by you. Video has limited field of view and may not capture events normally seen by the human eye. The frame rate of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and recollection, not replace it."

The Chief or his designee shall notify involved personnel prior to the Department's release of any critical incident recording(s) to the media.

449.13 SYSTEM ADMINISTRATOR

BWC data shall be stored in an online cloud database that has a reliable method for automatically backing up data for storage, managed by an experienced and reputable third-party vendor using a system that has a built-in audit trail to prevent data tampering or unauthorized access.

The System Administrator is designated by the Chief of Police and is responsible for the organization and retention of data obtained from the BWCs. This includes, but is not limited to, the following:

- (a) Operation and user administration of the system.
- (b) System evaluation.
- (c) Training.
- (d) Policy and Procedure review.
- (e) Review and release of BWC data in accordance with federal, state, local statutes and the Santa Cruz Police Department's retention policy.
- (f) Deletion of recordings.

449.14 DELETION OF ACCIDENTAL RECORDING

If personnel accidentally activate a BWC and the data has no value, personnel may request the body-worn-camera file be deleted by submitting a request to the System Administrator via the chain of command. Before deleting an accidental recording, the System Administrator will view the data and make notes in the comment field concerning the request and a description of the content of the data.

449.15 CATEGORY AND RETENTION

Non-evidentiary Data: All non-evidentiary data will be retained for a minimum of (60) days.

Evidentiary Data: Evidentiary data, including data involving a critical incident, will be retained for a minimum of two years or in the same manner as is required by law for other evidence that may be relevant to a criminal prosecution if longer, under any of the following circumstances:

- (a) The recording is an incident involving the use of force.
- (b) The recording is of an incident that leads to the detention or arrest of any individual.
- (c) The recording is relevant to a formal or informal complaint against a law enforcement officer or a law enforcement agency.

Critical Incident Data: All data concerning a critical incident shall be retained permanently.

All evidentiary and non-evidentiary data shall be erased, destroyed, or recycled in accordance with the provisions of Government Code section 26202(a).

Records or logs of access and deletion of data from BWCs shall be retained permanently