

# Body Worn Cameras

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## 450.1 PURPOSE AND SCOPE

In-car (Mobile Audio Video) cameras and body worn cameras (BWC) provide additional documentation of police/public encounters and may be an important tool for collecting evidence and maintaining public trust. Persons reviewing recordings must be cautious before conclusions are reached about what the video shows.

It is the policy of the Pasadena Police Department to equip sworn personnel, and a select number of civilian employees, with BWCs. The cameras are intended to:

- Capture crimes in progress, whether perpetrated against the officer or the community, and to maintain this evidence for presentation in court.
- Document initial police response, the discovery of evidentiary items, and the actions of the police pursuant to an investigation including calls for service or self-initiated police contacts.
- Mitigate potentially confrontational interactions with members of the public through the presence of the BWC.
- Prevent and investigate complaints made against officers during the course of their police duties.
- Serve in training and performance feedback - ensuring the professionalism, accountability, and transparency of members of the Pasadena Police Department.

Officers shall utilize BWCs in accordance with the provisions in this general order and state and federal law to complement the performance of patrol personnel, investigators and jailor personnel.

While recordings obtained from BWCs provide an objective record of events, it is understood that video recordings do not necessarily reflect the experience or state of mind of the individual member(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved member. Video captures 2-dimensional images, which may be different from a member's 3-dimensional observations. Lighting and angles may also contribute to different perceptions. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved member and that the involved member may see and hear information that may not be captured on video.

## 450.2 POLICY

This policy provides guidelines for the use of BWCs by members of this department while in the performance of their duties, including all recording systems whether body-worn, hand-held or integrated into portable equipment. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

This policy does not apply to lawful surreptitious audio/video recording, interception of communications for authorized investigative purposes, or to mobile audio/video recordings (see the Investigation and Prosecution and Mobile Audio/Video policies).

## 450.3 MEMBER PRIVACY EXPECTATION

All recordings made by members acting in their official capacity shall remain the property of the City of Pasadena, regardless of whether those recordings were made with department-issued or personally owned recorders. Members shall have no expectation of privacy or ownership interest in

the content of these recordings. Members shall maintain full privacy and ownership interest in the unrelated content stored on personally owned recorders, including cellular telephones.

#### **450.4 MEMBER RESPONSIBILITIES**

Each uniformed member (Officers, Jailors, Park Safety, and Community Safety Officer) shall be responsible for making sure that he/she is equipped with a BWC issued by the Department, and that the recorder is in good working order prior to each shift. If the recorder is not in working order or malfunctions at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable. Uniformed members shall wear the BWC in a conspicuous manner and the camera shall be forward facing on the uniform to facilitate optimal recording field of view.

Any member assigned to a non-uniformed position (Detectives and Special Investigative Units) shall carry an approved BWC any time the member believes that such a device may be useful. Non-uniformed members wearing a BWC shall wear the device in a conspicuous manner and forward facing to facilitate optimal recording field of view. This section does not apply to members acting in an undercover capacity.

When using a BWC, the assigned member shall record his/her name, PPD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members shall document the use of a BWC and the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording prior to the conclusion of the investigation. Members shall include the reason for deactivation.

When a member reasonably believes a recorded contact may lead to a review by a subsequent supervisor, the member should promptly notify their supervisor of the existence of the recording.

Members shall not tamper with or dismantle any hardware or software component of the body worn camera.

All Department members using BWCs shall be trained and provided a copy of the policy prior to use of equipment. The training and course outline shall be documented in the Department's Training Management System. Supervisors with Department members assigned BWCs shall conduct section training twice a year on the policy expectations, and use and maintenance of the BWC equipment. Employees will also be tested annually via the Department's web-based policy review.

##### **450.4.1 TRANSFER PROCEDURES**

Members shall dock their issued body worn camera for automated upload of data files daily or when directed by a supervisor to ensure the timely transfer of data. This procedure will ensure that storage capacity is not exceeded within the device and to view uploaded audio/video files for report writing.

Members uploading audio/video files into storage shall include incident information (metadata) for any recording which has the likelihood of resulting in a criminal, civil, or administrative review or investigation. These incidents shall include those in which an employee may only be a secondary or peripheral responder. All associated recordings for these events, whether evidence or not, shall include general offense and case number.

Personnel assigned a BWC should allow sufficient time to upload files at the end of their shift to avoid incurring unnecessary overtime expenditures. All Department policies and MOUs regarding the use of overtime will apply.

#### **450.5 SUPERVISOR RESPONSIBILITIES**

Supervisors shall not use BWCs or online storage system until they have successfully completed the required training.

Supervisors shall ensure members assigned a BWC are utilizing the equipment according to policy guidelines. Supervisors may also conduct random or directed review of recordings to assess performance related to its use and note videos that may be appropriate for training and/or administrative review. Such reviews must comply with auditing section 450.14. Supervisors completing an audit should memorialize in the Notes field the purpose for each video audited.

When an incident arises that requires the immediate retrieval of BWC media for chain of custody purposes (including, but not limited to, officer involved shootings, in-custody deaths, critical incidents involving great bodily injury, or other incidents as determined by policy/supervision), a supervisor will respond to the scene, ensure the position/location of the BWC is documented and photographed, retrieve and take custody of the BWC, and ensure the data is uploaded and access is restricted (*Penal Code* § 832.18). Supervisors shall review relevant video recordings prior to submitting any administrative reports.

#### **450.6 ACTIVATION OF THE BODY WORN CAMERA**

This policy is not intended to describe every possible circumstance where the activation of the BWC is appropriate and/or required. Not all situations will clearly start out necessitating documentation by the BWC nor will all recorded events have a clear ending for when the BWC is no longer required.

The BWC should be activated in:

(a) All enforcement and investigative contacts, including but not limited to:

- Calls for service
- Traffic stops
- Pedestrian stops (including member-initiated consensual encounters)
- Field interviews
- Witness and victim interviews (except as noted below in Section 450.8)
- Detentions
- Arrests (including Miranda advisements)
- Searches (service of warrants, warrantless or consensual searches)
- Crowd management and control
- Canine deployments

- Use of force investigations

- (b) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

At no time is a member expected to jeopardize his/her safety in order to activate a BWC or other recording medium. If the immediate activation of the BWC is not feasible due to an imminent risk to the safety of the officer or others, the officer will activate the BWC at the first available opportunity after the immediate threat has been addressed. Members assigned a BWC should consider initiating a recording prior to contacting or detaining people in the course of their duties. Once a recording is initiated, a continuous recording of the event must take place until completion of the incident or contact.

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing video recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in video recording. When video recording is discontinued, officers should utilize other means of capturing the audio. Video recording should resume when privacy is no longer an issue unless the circumstances no longer fit the criteria for recording.

Members shall not use BWC devices to record communications or discussions with co-workers or supervisors, non-work related activities or non-law enforcement contacts. Members shall not use BWC devices to record discussion pertaining to tactical operations, such as those by SWAT personnel.

#### 450.6.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

*Penal Code* § 632 prohibits an individual from surreptitiously recording a “confidential” conversation if there is a reasonable expectation of privacy or confidentiality. However, *Penal Code* § 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation. Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (*Penal Code* § 633).

Members shall not surreptitiously record another Department member without a court order unless lawfully authorized by the Chief of Police or his/her authorized designee.

#### 450.7 ADVISEMENT ABOUT RECORDING

Private citizens do not have a reasonable expectation of privacy when talking with police personnel during the scope of an officer’s official duties. Private citizens may have a reasonable expectation of privacy in their homes or place of business except when officers are lawfully present during the course of official duties (warrant, consent, exigent circumstances). Therefore, members are not required to give notice they are recording and/or obtain consent.

#### 450.8 TERMINATION OF RECORDING

Once activated, the BWC should remain on continuously until the member’s direct participation in the incident is complete, the situation no longer fits the criteria for activation, or unless tactical or practical reasons dictate otherwise. Recording may be stopped during significant periods of inactivity, such as report writing or other breaks from direct participation in the incident.

If the BWC is used during an enforcement situation and it becomes necessary to discuss issues or concerns related to privacy or officer-safety with another employee or supervisor, the device may be turned off. The intention to stop the recording should be noted by the officer verbally such that it is recorded by the BWC before the deactivation. When the aforementioned conversation has ended, the member should reactivate the camera promptly and the member shall note verbally that the recording has continued.

Members shall cease recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (*Penal Code* § 636).

Circumstances when a member is not required to activate the BWC or may cease recording include, but are not limited to:

- a) Officer and citizen safety would be compromised (e.g. a confidential informant, citizen informant, or undercover member);
- b) A health care provider is discussing medical issues with a patient;
- c) While in a hospital for an extended security detail with a subject or an arrestee. However, the BWC should be turned on in the hospital if a situation arises which requires police action or to garner investigative statements;
- d) On a primary school campus, unless officers are responding to an imminent threat to public safety, such as assault in progress, or effecting an arrest.
- e) Non-enforcement contacts in restrooms, dressing rooms, and locker rooms;
- f) A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational;
- g) In the member's judgment, a recording would interfere with his or her ability to conduct an investigation, or may be inappropriate because of the victim or witness's physical condition, emotional state, age, or other sensitive circumstance (e.g. sexual assault victim);
- h) If a member is on a perimeter post or assigned to a static post where he/she is not in contact with citizens, involved in an enforcement action, or actively part of the investigation;
- i) Other examples as covered in instructional training sessions.

#### **450.8.1 EXPLOSIVE DEVICE**

Many portable recorders, including BWCs and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

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

Members are prohibited from personally retaining recordings of activities or information obtained while acting in their official capacity, whether the recording was created with department-issued or

personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized Department purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned BWCs while acting in their official capacity. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

#### **450.10 RETENTION REQUIREMENTS**

All recordings of evidentiary value shall be retained for a period consistent with the requirements of the organization's records retention schedule, but no less than 1 year pursuant to *Government Code* § 34090.6.

In the event of an accidental recording of a department member where the resulting recording is of no investigative or evidentiary value, the member who made the recording shall notify a supervisor and the recorded employee of the footage as soon as he/she becomes aware of its existence. An employee may request, via the chain of command, that the video be isolated. The supervisor shall email his/her Division Commander with sufficient information to locate the video and an explanation for the request. The Division Commander shall review the video, approve or deny the request, and forward to the Strategic Services Division Commander for action through the System Administrator. All requests to isolate video shall be maintained by the Strategic Services Division Commander.

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

Except for those situations otherwise contained within this policy, Department members will be allowed to review recordings for the following reasons:

- (a) To test the device to ensure it is operating properly;
- (b) When preparing written reports. Members should review recordings to assist with their investigation prior to the completion of their report. Recorded statements shall be summarized and documented in the narrative of the report;
- (c) Follow-up to an assigned criminal investigation;
- (d) Prior to courtroom testimony or for courtroom presentation;
- (e) By an authorized supervisor/investigator participating in an investigation or inquiry of a meritorious conduct, personnel complaint, or administrative or criminal investigation;
- (f) Pursuant to lawful process or by court order.

In the event video files are utilized for training purposes and the involved employee(s) object to the use of the video, such objection shall be submitted to the employee's section Lieutenant. The value of the video for training will be weighed against the employee's objections and basis for the objection.

Anytime a Department member reviews a recording pursuant to a criminal investigation, or in authoring a report or memorandum, the viewing person shall document in the report the fact that the recording was viewed.

BWC recordings shall not replace employees' investigative notes taken at the scene and members should not use the fact that a recording was made as a reason to write a less detailed report.

Whenever a BWC is present during a critical incident, such as an officer-involved shooting or in-custody death, the involved party or witness shall notify an on-duty supervisor as soon as practical. The supervisor shall secure the device until turned over to the Pasadena Police Department supervisor assigned to the investigation. The BWC recording shall be uploaded to the storage system as soon as practical and access to the recording shall be restricted.

A Department member involved in an officer-involved shooting, in-custody death, incident resulting in great bodily injury, or suspected of criminal activity shall be given the opportunity to review his/her own BWC video recording of the incident prior to providing a statement to criminal investigators. In the event the involved member does not provide a voluntary statement to criminal investigators, the member will not be allowed to view any recordings until the administrative investigation. If deemed necessary and appropriate by the assigned investigative supervisor, the involved Department member shall be given the opportunity to review other relevant BWC recordings that memorialized the encounter from a similar vantage point. The member may have his/her representative present during the viewing of the video recordings and will be afforded the opportunity to privately consult with his/her representative before providing a statement.

Members are not authorized to play back BWC recordings to allow members of the public to review the recordings without approval from a Lieutenant.

#### **450.11.1 ADMINISTRATIVE INVESTIGATION**

As part of the administrative investigation, the member shall be given the opportunity to view the video recordings of the incident from his/her own BWC immediately prior to his/her interview. The member may have his/her representative present during the viewing of the video recordings and will be afforded the opportunity to privately consult with his/her representative before providing a statement.

#### **450.12 RECORDS REQUEST**

Audio/video recordings are investigative materials. All requests for the release of the recordings shall be handled in accordance with applicable state and federal laws. All recordings released by the Department by virtue of the California Public Records Act, court order, or subpoena shall be handled by the Custodian of Records and documented (see the Records Maintenance and Release Policy 810). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court. All recordings should be reviewed by the Custodian of Records prior to public release.

Although the data contained within audio/video systems is not considered Criminal Offender Record Information (CORI), it shall be treated in the same manner as CORI data. All access to the systems is logged and subject to audit at any time. Access to the data from the systems is permitted on a right to know, need to know basis.

Pursuant to discovery requests in preparation for criminal trials, the investigator can make a copy of an audio/video file for release to the District Attorney's Office, City Attorney's Office, and/or other Judicial Department. The release shall be memorialized in a report by the investigator and signed as received by the prosecuting attorney, in compliance with current Department practice.

Prior to the public release of a recording containing the image of a readily identifiable Department member, that member shall be notified of the pending release as soon as practicable.

#### **450.13 COORDINATOR**

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use, maintenance, and training of BWC recording devices and the storage of recordings, including:

- (a) Establishing a system for downloading, storing, and security of recordings;
- (b) Designating persons responsible for downloading recorded data;
- (c) Establishing a maintenance system to ensure availability of operable BWC devices;
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured;
- (e) Establishing a system to prevent tampering, deleting, and copying recordings and ensure chain of custody integrity;
- (f) Working with the City Attorney's Office to ensure an appropriate retention schedule for recordings and associated documentation;
- (g) Isolating accidental recordings upon request of the applicable Division Commander;
- (h) Maintaining logs of access and isolations of recordings (Penal Code § 832.18).

#### **450.14 AUDITING**

For the purpose of ensuring incidents are being recorded per this Policy, a supervisor may randomly audit the system to evaluate policy compliance and performance.

Generally, minor infractions regarding the use of the BWC and related equipment may be viewed as training opportunities and documented rather than means to take disciplinary action, especially in the implementation stage of the project.

The Policy and Risk Management Unit will be responsible for routinely reviewing and updating applicable policies to meet state and federal law and industry best practices.

#### **450.15 PROHIBITION AGAINST MODIFICATION OF RECORDINGS**

Members shall not copy, edit, alter, erase, or otherwise modify in any manner audio/video recordings except as authorized by law or Department policy. Audio/video recordings shall not be disseminated via electronic mail.