

POLICY  
425

CALISTOGA POLICE DEPARTMENT  
Body Worn Cameras

DRAFT

425.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of Body Worn Cameras (BWCs) by sworn members of this department while in the performance of their duties. BWC devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

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).

425.2 POLICY

The Calistoga Police Department will issue sworn members with a Taser AXON Body Worn Camera (TABC or BWC) for use during the performance of their duties. The use of BWCs is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public. The Primary Objectives are as follows:

1. Allow for accurate documentation of police-public contacts, arrests, critical incidents, crime and accident scenes or other events that include the confiscation or documentation of evidence or contraband. TABCs also serve to enhance the accuracy of officer reports and testimony in court.
2. Enhance the agency's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes, and to provide additional information for officer evaluation and training.
3. Assist in Criminal and Administrative investigations.
4. Promote a transparent agency with the purpose of enhancing public confidence in the police department and improving community relations.
5. Affect both officer and public behavior with the intention of improving officer safety, ensuring professionalism in delivery of services, and gaining compliance.

425.3 PRIVACY EXPECTATION

All recordings made by members acting in their official capacity shall remain the property of the Department 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.

425.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed sworn member will 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. If the BWC 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 BWC as soon as practicable. Uniformed members shall wear the BWC in a conspicuous manner.

Any member assigned to a non-uniformed position may carry the issued BWC or other approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the BWC in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever possible.

When using a BWC, the assigned member shall record his/her name, badge 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 BWC and related software captures the user's unique identification and the date and time of each recording.

It is expected that sworn members will activate the BWC to record all enforcement contacts with citizens in the performance of their duties.

Whenever possible, officers should inform individuals that they are being recorded. In locations where individuals have a reasonable expectation of privacy, such as a residence, they may decline to be recorded unless the recording is being made in pursuant to an arrest or search of the residence or individuals. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy.

Members shall document 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. If a member fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated. A memo shall be routed to their supervisor and include the reason for not activating the BWC when involved in a situation where the activation of the BWC is required.

#### 425.5 SUPERVISORY RESPONSIBILITIES

Supervisory personnel shall ensure that all sworn members issued BWCs utilize them in accordance with policy and procedure defined in this policy.

Supervisors will conduct a quarterly review of recordings and storage system (i.e. Evidence.com) to ensure that the equipment is operating properly and that the officers

are using the BWC appropriately and in accordance with policy as well as to identify areas in which training is required.

#### 425.6 ACTIVATION OF THE PORTABLE RECORDER

This policy is not intended to describe every possible situation in which the BWC or approved portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the BWC any time the member believes it would be appropriate or valuable to record an incident.

The TABC does not record automatically. It shall be worn in BUFFERING mode with the power switch in the ON position. Event recording is activated by the officer pressing the EVENT button twice in rapid succession (double tap).

The TABC should be worn with the operating LED's on. Operating LED's may be turned off for tactical or covert situations.

Both audio and video record simultaneously with the exception of the 30 second pre-event recording, which records video only. The system records until the EVENT button is held down for three (3) seconds. It is at that point both video and audio stop recording and the TABC returns to BUFFERING mode. Except in cases of equipment malfunction, the On/Off switch shall not be utilized to stop the recording of an even

The TABC shall be activated in any of the following situations:

- a. All enforcement and investigative contacts including stops and field interview (FI) situations
- b. Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- c. Self-initiated enforcement activity in which a member would normally notify dispatch.
- d. 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. It is understandable that there may be times where the ability to activate due to officers safety or due to a quickly evolving situation than an officer may not be able to activate the BWC. However, the BWC shall be activated as soon as practical and the reason for not activating the BWC documented.

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording

should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

Personnel are not required to obtain consent from a private person when:

- In a public place
- In a location where there is no reasonable expectation of privacy (e.g., inside a building or dwelling where the officer is lawfully present and engaged in the performance of official duties).

#### 425.6.1 CESSATION OF RECORDING

Once activated, the BWC or approved portable recorder should remain on continuously until the member's direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

#### 425.6.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER

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 the authorized designee.

#### 425.6.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras 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.

#### 425.7 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued TABCs or approved portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department issued BWCs or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such

recordings shall be retained at the Department or by an approved storage service provider (i.e. Evidence.com)

Members are prohibited from using personally owned recording devices while on-duty without the express consent by a supervisor. 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.

#### 425.8 RETENTION OF RECORDINGS

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and download the file in accordance with current procedure for storing digital files and document the existence of the recording in the related case report. Transfers and download of files shall occur at the end of the member's shift, or any time the storage capacity is nearing its limit.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact); the member should promptly notify a supervisor of the existence of the recording.

##### 425.8.1 RETENTION REQUIREMENTS

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

#### 425.9 REVIEW OF RECORDINGS

It is not the intent of the department to randomly review body camera recordings to monitor Officer's performance or go on perceived "fishing expeditions" looking for inappropriate conduct. However, Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

When preparing written reports, members should review their recordings as a resource. However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Recorded files may also be reviewed:

- a. Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- b. Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- c. By media personnel with permission of the Chief of Police or the authorized designee.
- d. In compliance with a public records request, if permitted, and in accordance with the Records Release and Security Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Security Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be released unless disclosure is required by law or order of the court.

Any member who may have questions regarding the application of this policy is encouraged to seek clarification from supervisory personnel.