

## Body Worn Cameras (BWC)

### 451.1 PURPOSE AND SCOPE

The Anaheim Police Department recognizes that audio and video recording of contacts between Department personnel and the public provides an objective record of these events, and the use of a recording system complements field personnel in the performance of their duties by providing a digital record of enforcement and investigative field contacts. A recording of an event or contact also enables the delivery of timely, relevant and appropriate training to maximize safety for our personnel and improve the provision of services to the community.

The Department provides Body Worn Cameras (BWC) to uniformed personnel for use while on-duty. These recorders are intended to assist personnel in the performance of their duties by providing audio and video records of contacts. Except as provided below, all enforcement and investigative contacts, as well as all contacts specifically related to a call for service, will be recorded to ensure we collect the best evidence for criminal investigations. These recordings will also protect personnel from false accusations and can be instrumental in resolving citizen complaints.

While recordings obtained from BWC provide an objective record of these events, it is understood video recordings captured by a BWC (or any other recording device) do not necessarily reflect the experience or state of mind of the individual employee(s) in a given incident. Moreover, the video recording has limitations and may depict events differently than the events recalled by the involved employee. Specifically, 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.

### 451.2 UNIFORMED SWORN PERSONNEL RESPONSIBILITIES

Prior to going into service, each employee issued a BWC is responsible for making sure the BWC is in proper working order. Uniformed personnel assigned to field and enforcement duties during regular and extra duty assignments shall wear the BWC on their person in a forward facing position that facilitates comprehensive recording of the contact and/or incident.

Personnel will upload their digital audio/video files at the end of each work shift. 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.

Each employee will be responsible for the use and care of the BWC recorder he or she is using. When an employee determines a BWC is not operating properly, the employee shall notify a supervisor at the earliest practicable time.

#### 451.2.1 NON-UNIFORMED SWORN PERSONNEL RESPONSIBILITIES

Any detective/officer/investigator assigned to a non-uniformed position may carry and activate a department BWC at any time the employee believes such a device may be beneficial to the situation.

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All non-uniformed personnel who are executing pre-planned enforcement activities such as serving a search or arrest warrant or parole/probation searches shall wear and operate a BWC.

Non-uniformed employees shall be responsible for uploading their digital recordings in the same manner as described above for uniformed employees.

Field Training Officers who are wearing civilian clothing during the "shadow phase" are not required to wear a BWC, but may do so if they wish. However, they are still responsible for ensuring their assigned trainee is recording all contacts.

#### **451.3 ENTERING OF IDENTIFYING INFORMATION**

All employees utilizing the Evidence Transfer Manager to upload audio/video files into the Evidence.com database shall include metadata information for any recording which has the likelihood of resulting in a civil, criminal or internal action. 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, at minimum, include the following basic information:

- (a) General Offense (G.O.) or Incident number in the following format: ##-##### (i.e., 15-001234, 15-123456), etc.)
- (b) Type of Incident
- (c)

#### **451.4 ACTIVATION OF BODY WORN CAMERA**

All enforcement and investigative contacts, as well as all contacts specifically related to a call for service by uniformed sworn personnel issued a BWC, will be recorded.

In the event an officer is unable to activate his/her BWC as directed above, or in any instance during which an employee determines a BWC cannot or should not be used, the employee shall report the circumstance to a supervisor as soon as practicable, and document the reason the BWC was not used in a report.

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

- (a) Officer safety would be compromised due to unexpected or sudden altercation.
- (b) An informant or community member requests the BWC be turned off before giving information.
- (c) A health care provider is discussing medical issues with a patient.
- (d) While in the hospital for the sole purpose of waiting for an arrestee to be medically cleared. However, the BWC should be turned on in the hospital if a situation arises which requires police action.
- (e) While conferring with other officers regarding the specifics or tactics of a call.

Employees are prohibited from utilizing a department issued BWC for personal use.

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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 from this prohibition during the course of a criminal investigation.

- (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. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code § 3303(g).
- (b) Any 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.
  - 1. For the purpose of this policy, any officer contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other employees conducted solely for administrative purposes.

#### **451.5 STATEMENTS AND REPORTING**

All recorded victim, witness and suspect statements, as well as any other evidence specifically recorded, shall be identified as such in the corresponding report for future use.

- (a) To assist in future retrieval of a statement in the event it is needed for prosecution purposes, report narratives shall include:
  - 1. whether a statement or evidence was recorded;
  - 2. whether that statement or recording was uploaded as evidence;
  - 3. by whom it was recorded; and
  - 4. time and date of the recording.
- (b) Whenever any employee believes a particular contact may lead to a citizen complaint, he/she should bring the contact to the attention of a supervisor or the Bureau/Watch Commander.

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### **451.6 RETENTION OF BWC MEDIA**

Recorded media placed into Evidence.com shall be retained as specified in the City of Anaheim Record Retention Schedule. In general, the retention schedule requires recordings to be retained for two (2) years unless they are identified as evidence. If a recording is identified as evidence the retention will follow the Evidence/Property Files retention schedule. Recordings which become part of a citizen complaint or administrative/internal investigation will follow the retention time identified for the complaint/investigation. Inadvertent/accidental recordings of personal events and conversations shall be purged as soon as practicable upon the approval of a Watch/Bureau Commander or Records Administrator.

### **451.7 REVIEW OF BWC MEDIA FILES**

Unless prohibited by applicable law, recorded files may be reviewed in any of the following situations by the following personnel:

- (a) Except as provided under APD Policy 451.7(l) and/or (m) below:
  - 1. By the employee(s) who originally recorded the incident.
- (b) With prior supervisory approval, an employee may review another employee's recording provided the other employee was also directly involved in the incident in question.
- (c) By a supervisor investigating a specific incident involving a department employee;
- (d) By members of the City Attorney's office or Risk Management in connection with pending litigation;
- (e) Upon approval by a supervisor/manager, by a Department employee who is conducting an official investigation such as a personnel, administrative or criminal investigation;
- (f) Pursuant to lawful process or by court personnel otherwise authorized to review evidence in a related case;
- (g) Third party investigations: In the event a third party law enforcement agency (e.g. Orange County District Attorney's Office) is conducting a criminal investigation related to an incident involving a Department employee, recordings may be made available to that agency.
- (h) With approval by the Chief of Police by members of the OIR Group for review of a critical incident, internal affairs investigation, use of force review or other internal review.
- (i) Except as provided under 451.7(l) and/or (m), the Internal Affairs Detail shall provide subject employees the opportunity to view recordings obtained from their BWC relating to an Internal Affairs investigation prior to the administrative interview.

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(j) The Chief of Police has the discretion to allow viewing or release of recorded files if the Chief determines it is in the best interest of the Police Department or the City of Anaheim. When appropriate, every effort will be made to notify involved employees prior to release.

(k) As part of department approved training.

(l) An officer involved in the intentional discharge of a firearm, an incident where any party sustains great bodily injury, or an in custody death shall not review recorded files unless approved by the Chief of Police or the Deputy Chief of Police.

(m) Subject to the provisions of this policy, the Chief of Police or the Deputy Chief of Police has the discretion to prohibit the review of any recordings by Department employees if it is determined it is in the best interest of the Police Department or the City of Anaheim.

Subject to the provisions of (l) and (m) above, in the event that an employee is to be interviewed pursuant to an investigation related to an incident which results in injury, bodily harm, death or involves the use of force, the employee and/or his/her attorney will be afforded an opportunity to review his/her video of the incident prior to the interview or after the employee has been interviewed by the appropriate investigative personnel. If the employee elects to view the video after being interviewed, the employee shall be afforded the opportunity to review the video immediately after providing his/her statement regarding the underlying incident and be given an opportunity to offer a supplemental statement. Prior to the employee offering an initial statement, the following admonishment shall be provided to the employee:

“In this case, there is video evidence that you have had (or will have) an opportunity to view before (after) giving 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 a 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 a 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 ensure that your initial statement explains your state of mind at the time of the incident.”

#### **451.8 AUDITING**

For the purpose of ensuring police-related incidents are being recorded per this Policy, a supervisor or manager has the ability to periodically audit the system to determine usage.

#### **451.9 BWC RECORDINGS STORAGE & INTEGRITY**

(a) Only the Administration Captain or his/her designees may transfer or copy recordings onto any third party media storage device. Examples of a third party media storage device include but

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are not limited to: CompactDisc, floppy disk, portable hard drive, memory stick, thumb-drive, DVD, or other electronic media device.

(b) Only the Administration Captain or his/her designees may produce, reproduce or modify recordings for production in response to a subpoena, Public Records Act request or other request.

(c) No files shall be transferred or sent via email.

(d) 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 or her official duties.

(e) 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 Operations Support Captain. Such objection shall weigh the value of the video for training against the employee(s) objections and basis for the objection.

Digital files may not be deleted by any person from the recording device or the archival storage media without the authorization of a Watch/Bureau Commander or Program Administrator.

#### 451.9.1 COPIES OF ORIGINAL BWC STORAGE MEDIA

A copy of a recording may only be 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 generated by the District Attorney, City Attorney and/or a Defense Attorney will be handled by the Administration Division or assigned Investigative Detail. Requests for recordings in civil matters will be handled by the Administration Division.

#### 451.9.2 BWC STORAGE MEDIA AS EVIDENCE

In exceptional circumstances, the digital recorder may be booked into evidence prior to any uploading of media storage. Exceptional circumstances may include a major or significant incident; at the direction of a Watch Commander/Bureau Commander or above; or in the event the data cannot be uploaded due to a mechanical or technological malfunction. If the storage media is booked into evidence, established booking procedures shall be followed and referenced in the police report.

#### 451.9.3 PROGRAM ADMINISTRATOR

The Department shall designate a Program Administrator who has oversight responsibilities including, but not limited to:

(a) Documenting system malfunctions as well as equipment failures related to BWC;

(b) Properly training administrative staff regarding the use, retention and confidentiality of video records;

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- (c) Maintain digital video files and equipment in a secure and confidential environment and released only in accordance with this Policy and applicable federal, state, local statutes and other applicable laws;
- (d) Issue BWC devices and provide BWC training and instruction on use and operation of BWC;  
and
- (e) Provide recommendations on additional policy development and equipment integrity.