
Body Worn Camera Protocol

FOR

LAW ENFORCEMENT

2013

***Police Chiefs' Association
of
Santa Clara County***

Adopted May 9, 2013

**Body Worn Camera Protocol for Law Enforcement
POLICE CHIEFS' ASSOCIATION OF
SANTA CLARA COUNTY
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Chief Greg Finch

5/9/13
Date

Body Worn Cameras

PURPOSE AND SCOPE

Santa Clara County law enforcement agencies electing to employ Body Worn Cameras (“BWC”) should use a consistent protocol. The purpose of this protocol is to provide a best-practice model, however, recognizing that each law enforcement agency has particular conditions this protocol is intended as a foundation from which individual policies may be derived.

BWCs are intended to assist and complement officers in the performance of their duties. When BWC’s are used to record certain enforcement activities, they can provide a valuable visual and audio record of the incident. It is anticipated that this evidence will:

1. Assist officers in report writing except when prohibited by department policy;
2. Protect officers from unfounded allegations of misconduct;
3. Reduce needless litigation in the criminal justice system; and,
4. Provide a more transparent record of encounters with law enforcement.

USE OF BODY WORN CAMERAS

- 1) Care of the issued BWC is subject to individual departmental policy, and they shall be operated and maintained according to the manufacturer’s instructions and recommendations.
- 2) At the beginning of each shift, Officers shall determine whether their recording equipment is working satisfactorily. If a problem is found the Officer shall arrange for repair or adjustment. The Officer shall also ensure that the recorder is equipped with sufficient memory and battery power to complete his or her shift. If the system is malfunctioning, the officer shall immediately report this to their supervisor.
- 3) If a BWC malfunctions or is inoperable and the officer cannot utilize a BWC during their shift, this shall be noted in all written reports so that there is a contemporaneous record.

- 4) During their shift, Officers shall:
 - a) Ensure that the Body Worn Camera is properly worn and positioned to record events.
 - b) Make every reasonable effort to activate the BWC prior to making contact in any of the following incidents:
 - i) Any investigative encounter to confirm or dispel a suspicion that the person may be involved in criminal activity. This includes detentions, vehicle stops, pedestrian stops and consensual encounters;
 - ii) Probation, parole, post-release community supervision, mandatory supervision or consent searches;
 - iii) Service of search or arrest warrants; and,
 - iv) All suspect statements.
 - c) Make every reasonable effort to record non-enforcement contacts should they become confrontational, assaultive, or enforcement-oriented.
- 5) Recording such contacts shall be the rule and not the exception. If circumstances prevent an officer from recording such a contact, then this must be noted along with the explanation in any subsequent report.
- 6) It is recommended that Officers record any interview, pedestrian contacts, and other events when an audio/video record could have value as evidence.
- 7) Officers may activate the BWC before/during any other incident at their discretion.
- 8) BWC's are not designed to log evidence or for any situation where fine detail and resolution is necessary.
- 9) Once activated, the recording should not be intentionally terminated until the conclusion of the encounter unless tactical, safety or practical reasons dictate otherwise. Anytime the recording is terminated early, the reasons shall be documented in the subsequent police report. If no police report is filed for the recorded encounter, then the fact that the event was recorded and the reasons for the early termination of the recording shall be recorded in some manner.
- 10) Officer are not required to advise or obtain consent from a private person when:
 - a) In a public place; or
 - b) In a location where there is an expectation of privacy but the officer is lawfully present.
- 11) In general, Officers should not activate the BWC and/or use caution when entering a public locker room, changing room, restroom, doctor's or lawyer's office or other place where individuals unrelated to the investigation are present and would have a

heightened expectation of privacy.

- 12) The BWC data should be uploaded in a timely manner by properly trained and authorized personnel according to departmental policy.
- 13) Officers shall note in arrest and other reports when BWC records were made associated with that incident.
- 14) The BWC identifier shall be noted on the report for any incident where a report is taken and a BWC was activated,
- 15) No person shall tamper with, or in any other manner, alter the BWC data except as authorized by this protocol.
- 16) No stored image or other data may be copied, destroyed or disseminated for unauthorized reasons.

REVIEW OF THE BODY WORN CAMERA DATA

- 1) Recordings may be reviewed in any of the following situations:
 - a) By any officer viewing their individually assigned recordings pursuant to departmental policy;
 - b) By a supervisor investigating a specific incident;
 - c) By a department detective or investigator who is participating in an official investigation, such as a criminal investigation, a personnel complaint or an administrative inquiry;
 - d) By others with permission of a supervisor if they are participating in an official investigation or other official reasons;
 - e) By media personnel in accordance with the law and with permission of the Chief of Police, Sheriff or his or her designee;
 - i) Due to the heightened privacy concerns associated with a video recording, any BWC recording disclosed to the media may be edited to preserve the privacy of individuals unrelated to the case who were captured by the BWC recording when they had a reasonable expectation of privacy.
 - ii) When appropriate, court orders preventing or limiting the dissemination of the BWC recording shall be secured prior to distribution.
 - f) BWC recordings shall be treated as other forms of direct evidence and subject to discovery and disclosure in accordance with law.
 - i) Due to the heightened privacy concerns associated with a video recording, when appropriate court orders limiting the

public dissemination of the BWC recording shall be secured prior to distribution.

Retention

- 1) BWC recordings relating to incidents where criminal charges are filed shall be retained for at least one year after whichever of these events occurs last:
 - a) the matter is resolved; or,
 - b) the defendant has been released from custody; or,
 - c) the appeal is final.
 - d) The BWC recording may be destroyed earlier than this provided that the district attorney or other prosecuting agency, all defendants and the relevant City or County Counsel for the law enforcement agency which made the BWC recording are notified and given time to object prior to any destruction of a BWC recording related to a criminal incident;
- 2) BWC recordings relating to potential criminal charges that are not filed shall be retained for at least one year after the statute of limitations has expired.
- 3) BWC recordings relating to Internal Affairs Complaints (whether externally or internally generated) shall be retained in accordance with Penal Code §832.5, or until the matter has been resolved, whichever is later;
- 4) BWC recordings of routine events that are not associated with either a criminal investigation or an Internal Affairs Complaint shall be retained for at least one year;
 - a) After this time, such BWC recordings may be destroyed after notice is given to the relevant City or County Counsel for the law enforcement agency which made the BWC recording.
- 5) Request for Deletion of Accidental Recordings;
 - a) In the event of an activation of a BWC where the resulting recording contains personal and/or private conversations of an officer unrelated to any ongoing criminal or internal affairs investigation, or otherwise has no valid official purpose, and which has no apparent evidentiary or investigatory value, an officer may request for the deletion of the accidentally recorded BWC file by submitting a written request to the system administrator. If the Chief of Police, Sheriff or his or her designee, determines that a BWC recording contains personal and/or private conversations of an officer unrelated to an ongoing criminal or internal affairs investigation, or otherwise has no valid official purpose, and which has no apparent evidentiary or investigatory value, it may be deleted after thirty days.
 - b) In the event of an activation of a BWC where the Chief of Police, Sheriff or his or her designee, determines that a BWC recording contains personal and/or private conversations or images of any individual unrelated to an ongoing criminal or internal affairs investigation, or otherwise has no valid official purpose, and which has no apparent evidentiary or investigatory value, it may be deleted after thirty days.