San Bernardino PD Policy Manual

Body Worn Camera

449.1 PURPOSE

This Department procedure establishes guidelines for Department members using body worn cameras (BWC), and procedures for preserving the digital media in Data storage environment.

Law enforcement's use of body worn cameras has proven effective in reducing violent confrontations and complaints against officers. Cameras provide additional documentation of police/public encounters and may be an important tool for collecting evidence and maintaining public trust. There is also a learning curve that comes with using body-worn cameras. Video cannot always show the full story nor does it capture an entire scene. The use of cameras does not reduce the requirement to provide thorough written documentation. Persons reviewing recordings must also be cautious before conclusions are reached about what the video shows.

The BWC data is not to be used for the purpose of random surveillance of officers, initiating an investigation or initiating disciplinary action against an officer. The data captured by BWC may be accessed and/or used as evidence relating to a complaint of misconduct made against an officer; or in situations where evidence of officer misconduct is discovered during the course of authorized access or review of BWC data with regard to pending administrative, criminal, civil, or traffic matters.

449.2 SCOPE

This procedure applies to all Department members.

449.3 DEFINITIONS

Body Worn Camera (BWC) - A camera worn on an individual officer's person that records and stores audio and video.

BWC Program Administrator (Personnel and Training) - Police Department program administrator for BWC data storage and the BWC system with full access to user rights, sets user access and parameters.

Digital Evidence - BWC files, including photographs, audio recordings and video footage, captured by a BWC and stored digitally.

Evidence Transfer Manager (ETM) - A portable multi-ported docking station installed at the station. 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 the designated data storage environment.

Data storage environment - A digital evidence management service either maintained on department servers or contracted for the city and accessed at <u>Sbpd.Data storage environment</u>. The service stores digitally encrypted data in a highly secure environment accessible to San Bernardino Police Department personnel based on security clearance.

San Bernardino PD Policy Manual

Body Worn Camera

Metadata - Case numbers, Incident numbers and other descriptors used to identify digital evidence.

449.4 TRAINING

All officers will receive training regarding the use and maintenance of the BWC prior to utilizing them in their daily duties.

449.5 PROCEDURE

449.5.1 OFFICER SAFETY

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.

449.5.2 GENERAL

- (a) Only authorized personnel shall use or be in possession of a BWC device.
- (b) BWC equipment is for official use only and shall not be utilitzed for personal use.
- (c) Officers shall not tamper with or dismantle any hardware or software component of any BWC device.
- (d) The use of any other personal recording device for the same purpose is not authorized, without permission of the Chief of Police or designee.
- (e) All digital evidence collected using the BWC is considered a record of the San Bernardino Police Department and is for official use only.
- (f) Accessing, copying, forwarding or releasing any digital evidence for other than official law enforcement use and contrary to this procedure is strictly prohibited. Public release of digital evidence is prohibited unless approved by the Chief of Police or his/her designee.
- (g) Personal computer equipment and software programs shall not be utilized when making copies of digital evidence. Using a secondary recording device such as video camera, cell phone or other to record or capture digital evidence from the SBPD data storage environment is strictly prohibited.

449.5.3 BWC MODES OF OPERATION (TASER MODELS)

- (a) The BWC system operates on rechargeable battery power for up to twelve hours of continuous buffering (see below) and records up to an entire shift of continuous video and audio media. The user can view recordings and add metadata via a specific monitor, computer or a smart phone with specific application. Viewing or adding metadata will not alter the video recording as it is protected with multiple layers of encryption on the aforementioned devices, the BWC itself and within the data storage environment.
- (b) Buffering Mode is when a BWC is on but has not been activated to record both sound and video. While in the buffering mode, the camera will continuously record only video in 30 second loops.

San Bernardino PD Policy Manual

Body Worn Camera

(c) Event Mode is when the Event button is activated. The BWC saves the buffered video from 30 seconds prior to pressing the button (video only) and continues recording video as well as audio for up to twelve hours. Repeated pressing of the Event button turns the recording on and off and creates separate media segments.

449.5.4 STORAGE

When not in use, the BWC devices **shall** be stored in the designated ETM or in a secure storage location in the SBPD equipment room.

449.5.5 PRE-SHIFT INSPECTION

- (a) Officers **shall** inspect their assigned BWC devices daily to ensure there is no visual damage and the device is in working order.
- (b) Visual damage **shall** be immediately reported to a supervisor upon discovery.
- (c) Inoperable equipment **shall** be tagged and returned to Personnel and Training as soon as possible.

449.5.6 CAMERA POSITION

Officers **shall** wear the BWC above the midline of their torso and in a position that provides for effective recording.

449.5.7 EQUIPMENT REPAIR, REPLACEMENT, AND MAINTENANCE

- (a) When a BWC malfunctions, the officer will notify his or her supervisor and Personnel and Training.
- (b) The officer will note the nature of the malfunction in their notification.
- (c) The inoperable equipment will be taken to Personnel and Training for repair as soon as possible.
- (d) If Personnel and Training cannot repair the unit, the manufacturer will be contacted to facilitate the repair. Repair and replacement of damaged or nonfunctional BWC equipment is coordinated through Personnel and Training and performed through an authorized service provider.
- (e) This procedure will be followed for all BWC related equipment and accessories.

449.5.8 ADVISEMENTS ABOUT RECORDING

- (a) Private citizens do not have a reasonable expectation of privacy when talking with police officers during the scope of an officer's official duties, even when the contact is in a private residence. Therefore, officers are **not** required to give notice they are recording. However, if asked, officers **shall** advise citizens they are being recorded.
- (b) Officers are **not** required to initiate or cease recording an event, situation or circumstance solely at the demand of a citizen.
- (c) Officers and supervisors assigned to investigate a complaint against a member of the police department **must** inform complainants and witnesses they are being recorded.

449.5.9 WHEN AND WHERE TO RECORD

(a) Enforcement Related Contacts

- 1. Officers **shall** use the event mode to record enforcement related contacts. The event mode should be activated prior to actual contact with the citizen, or as soon as safely possible thereafter, and continue recording until the contact is concluded.
- 2. Enforcement related contacts include but are not limited to the following: Traffic stops, field interviews, detentions, arrests, persons present at radio calls who are accused of crimes, and consensual encounters in which the officer is attempting to develop reasonable suspicion on the subject of the encounter.
- 3. Covering another City employee or law enforcement officer during an enforcement contact; including, but not limited to: CSOs, Parking Enforcement Officers, Animal Control Officers, etc.
- 4. Officers working plain clothes assignments are exempt from this policy while working in a plain clothes capacity.
- 5. If an officer is unable to activate his or her BWC prior to initiating any of these enforcement or investigative activities, the officer shall activate the device as soon as it is practical and safe to do so. As in all enforcement and investigative activities including vehicle and pedestrian stops, the safety of the officers and members of the public are the highest priorities.

(b) Arrests

1. Officers may stop recording in the event mode once the arrestee is no longer in their custody.

(c) Suspect Interviews

- 1. Officers are encouraged to fully record suspect interviews. Officers should not stop and start the recording during a suspect interview.
- 2. When recording interviews, officers shall ensure they record any admonishments prior to the start of an interview.

(d) Private Residences

- 1. Private citizens have a reasonable expectation of privacy in their homes. However, when officers are lawfully present in a home (warrant, consent, or exigent circumstances) in the course of official duties, there is no reasonable expectation of privacy.
- (e) During the execution of a search warrant, an arrest warrant, a Fourth Amendment waiver search, or a consent search in which the officer is looking for evidence or contraband.
- (f) Officers' use of BWCs at special events is at the discretion of the Special Event Incident Commander
- (g) Officers' use of BWCs during SWAT operations is at the discretion of the Tactical Incident Commander.
- (h) Officers' use of BWCs during HNT operations is at the discretion of the HNT Commander

San Bernardino PD Policy Manual

Body Worn Camera

(i) Victim and witness interviews

- 1. Victim and witness interviews should be recorded.
- 2. Domestic violence victims often recant their statements as early as the following morning after a crime. Victims may also make their children unavailable for investigators or court to avoid their providing statements. For these reasons, domestic violence victims should be recorded unless the victim expressly refuses to be recorded. Officers should also record the statements of children of domestic violence victims who are witnesses in these types of cases when possible.
- 3. BWCs should be used during Sex Crimes or Child Abuse investigations to include statements of victims, witnesses, and interactions with parents of victims.

449.5.10 WHEN AND WHERE NOT TO RECORD

- (a) BWCs shall not be used to record non-work related activity.
- (b) BWC shall not be used to record in areas or activities such as pre-shift conferences, Department locker rooms, break rooms, coffee breaks (10-48), meal breaks (Code 7), or other activities not related to a criminal investigation.
- (c) BWCs shall not be activated in places where persons have a reasonable expectation of privacy, such as locker rooms, dressing rooms, or restrooms unless such presence is directly relevant to the criminal investigation.
- (d) When possible, officers should avoid recording exposed areas of the body that could cause embarrassment or humiliation, such as exposed breast, groin, etc. unless such condition is directly relevant to the criminal investigation.

(e) Patient privacy

- 1. Officers shall not record patients during medical or psychological evaluations by a clinician or similar professional, or during treatment. This includes during CCRT clinician interviews. Officers shall be aware of patients' rights to privacy when in hospital settings. When recording in hospitals and other medical facilities, officers shall be careful to avoid recording persons other than the suspect.
- 2. Officers shall not record while in a facility whose primary purpose is to provide psychiatric services unless responding to a radio call involving a suspect who is still present.
- 3. Officers shall not record while inside jail facilities once the arrestee has been turned over to the custody of jail personnel.

(f) Demonstrations

- 1. As a general policy, Department personnel should refrain from the visual recording or photographing of peaceful demonstrations.
- 2. When there is reason to believe that a planned event has the potential for unlawful activity, Commanding Officers should make the determination whether visual recording or photographing is appropriate.

San Bernardino PD Policy Manual

Body Worn Camera

- 3. During demonstrations, officers shall operate cameras in the buffering mode. If officers witness crimes occurring among the demonstrators and/or believe an arrest is likely, they should begin recording in the event mode.
- (g) Generally, officers should not record informal or casual encounters with members of the public. Officers should consider that recording people in some circumstances may inhibit sharing neighborhood information or developing strong ties between members of the community and officers.

449.5.11 DOCUMENTATION OF RECORDED EVENTS

All recordings shall be documented, such as in a CR1, citation, FI, CR2, or CAD entry.

449.5.12 ENTERING METADATA

Each recorded segment may require metadata be entered, even if the segments are of the same event. Metadata should be added at the conclusion of the event. In case of a delay, metadata should be added as soon as possible

449.5.13 IMPOUNDING PROCEDURES

After verifying that any necessary metadata has been added to all recorded events, officers **shall** place the BWC into their assigned open slot on the docking station at the end of their shift. This will allow for the battery to recharge. The data will automatically be transferred from the BWC through the docking station to the Data storage environment. The data is considered impounded at this point.

449.5.14 ACCESSING IMPOUNDED DIGITAL EVIDENCE

- (a) All those given permission associated with the Data storage environment may review digital evidence based upon their individual security level.
- (b) Using a Department computer, log in to the Sbpd.Data storage environment in the browser.
- (c) Enter assigned user name and password. For help with problems, contact the Department Program Administrator in Personnel and Training.
- (d) Digital Evidence can be viewed and/or copied from this location where authorized.

449.5.15 RETENTION OF DIGITAL EVIDENCE

- (a) All recordings related to any criminal proceeding, claim filed, pending litigation, or a personnel complaint, shall be preserved until that matter is resolved and/or in accordance with the law.
 - 1. Evidentiary recordings shall be retained for a minimum of 2 years under any of the following circumstances (PC 832.18, et al):
 - (a) The recording is of an incident involving the use of force by a peace officer or an officer-involved shooting.
 - (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.
- 2. Evidentiary recordings that may be relevant to a criminal prosecution should be retained in the same manner as is required by law for other evidence that may be relevant to a criminal prosecution.
- (b) Records or logs of access and deletion of data from BWC shall be retained permanently.

449.5.16 REVIEWING IMPOUNDED DIGITAL EVIDENCE

- (a) 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 may review digital evidence prior to completing reports when necessary to ensure accuracy. Officers may review digital evidence prior to providing voluntary statements during critical incident investigations. Officers shall review digital evidence prior to providing testimony at hearings, trial, or depositions.
- (b) Officers may review their own recordings.
- (c) Detectives are responsible for reviewing, updating and tracking digital evidence associated with their assigned cases.
- (d) The Department shall not review digital evidence solely for the purpose of general performance review, for routine preparation of performance reports, or to arbitrarily discover policy violations.
- (e) In situations where there is a need to review digital evidence not covered by this procedure, the Chief or his/her designee must approve the request. Each such situation will be evaluated on a case by case basis.
- (f) Digital evidence may be viewed for administrative purposes limited to the following:
 - 1. Any incident in which a member of the Department is injured or killed during the performance of their duties.
 - 2. Any incident involving the use of force by a member of the Department, including canines.
 - 3. Any in-custody death.
 - 4. Any police pursuit.
 - 5. When any member of the Department intentionally or unintentionally discharges a firearm at a person regardless whether an individual is struck.
 - 6. When any member of the Department, not involved in training, intentionally or unintentionally discharges a Conducted Energy Device (CED) at a person, including the application of a drive stun.
 - 7. Officer involved traffic collisions.
 - 8. Prior to the release of recordings in response to a proper legal request (e.g., in response to a subpoena or other court order).

- 9. In preparation for a civil deposition or responding to an interrogatory where the incident arises from the employee's official duties.
- 10. When preparing to testify in a criminal, civil, or administrative proceeding arising from the employee's official duties.
- 11. For investigations undertaken by the Department, for the purpose of proving or disproving specific allegations of misconduct.
- 12. For administrative proceedings, when digital evidence is used by the Department for the purpose of proving or disproving allegations of misconduct, only digital evidence relevant to the investigative scope shall be viewed and retained by investigators. Information relevant to the recordings viewed and seized as evidence by investigators shall be documented as part of the chronological summary of any investigation undertaken by the Department.

449.5.17 DISCOVERY OF MISCONDUCT

Employees reviewing event recordings should remain focused on the incident or incidents in question and review only those recordings relevant to their investigative scope. If improper conduct is discovered during any review of digital evidence, the person who discovered the conduct in question shall notify a supervisor. Nothing in this procedure prohibits addressing policy violations.

449.5.18 COPYING AND RELEASING DIGITAL EVIDENCE

Digital evidence captured by BWC shall be treated as evidence and handled pursuant to existing Department policies and procedures and state law.

449.5.19 USE OF DIGITAL EVIDENCE FOR TRAINING PURPOSES

Officers and supervisors may find it useful, and are encouraged, to review recordings of incidents of which they were involved when beneficial for the purpose of conducting a tactical debrief. When an incident is recorded which may be of value as a training aid for a broad section of the Department, the recording officer or that officer's supervisor should contact the Training Sergeant who will review the digital evidence to determine the value of the incident for training. If the Training Sergeant determines the incident would be an appropriate training aid, the Training Lieutenant shall obtain approval from the Department Legal Advisor and the Assistant Chief. Should the recorded officer(s) object to the use of the recording as a training aid, they may speak with the Chief or his/her designee.

449.5.20 BWC PROGRAM ADMINISTRATOR RESPONSIBILITIES

BWC Program Administrators shall be sworn members assigned to Personnel and Training. BWC Program Administrators are responsible for performing the following duties:

- (a) Maintain and troubleshoot the BWC units.
- (b) Maintain a record of assigned BWC and related equipment.
- (c) Be proactive and able to complete minor repairs.
- (d) Arrange for the warranty and non-warranty repair of the BWC units.

San Bernardino PD Policy Manual

Body Worn Camera

- (e) Repair or replace BWC components (cameras, docking stations, etc.).
- (f) Maintain BWC equipment repair and maintenance records.
- (g) Update software and system settings as necessary.
- (h) Train officers on current policy and the proper use of BWC units.