

## Policy 425 Body Worn Cameras

### **425.1 PURPOSE AND SCOPE**

This policy provides guidelines for the use of body worn cameras by members of this department while in the performance of their duties. Body worn cameras (BWCs) include all recording systems whether body-worn, handheld, or integrated into portable equipment. This policy does not apply to lawful surreptitious audio/video recording, interception of communications for authorized investigative purposes, or mobile audio/video recordings (see the Investigation and Prosecution policy). Body Worn Cameras (BWCs) are intended to assist and complement officers in the performance of their duties. When BWCs are used to record certain enforcement activities, they can provide a valuable visual and audio record of the incident.

All BWC recording media, images, audio and video are the property of the El Cerrito Police Department and shall not be released, copied or disseminated in any form or manner outside the parameters of this policy, without the written consent of the Chief of Police.

### **425.2 DEPLOYMENT**

The Police department will issue BWCs to department personnel for use during uniformed work activities when the Class B or Class C uniform is worn. Department members shall deploy issued BWCs when conducting uniformed job activities. Department members assigned to investigative, administrative, or alternate uniform assignments shall deploy issued BWCs when any of the activities described in the use criteria are planned in advance.

Personnel using BWCs are responsible for ensuring the battery is fully charged and that the BWC is operating properly, prior to deployment. Personnel shall immediately report equipment malfunctions or problems to their supervisors.

### **425.3 USE CRITERIA**

There are many situations where the use of a BWC is appropriate. This policy is not intended to describe every possible circumstance. Unless it is unsafe or impracticable to do so, personnel shall activate their BWC prior to making contact in all of the following circumstances:

- a. Enforcement encounters where there is reasonable suspicion the person is involved in criminal activity. This includes, but is not limited to, dispatched calls as well as self-initiated activities.
- b. Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- c. Self-initiated activity in which a member would normally notify the dispatch center.
- d. Probation or parole searches.
- e. Service of search or arrest warrants.
- f. Police Canine deployments for all involved personnel.
- g. Mental health evaluations.
- h. Transportation of arrestees and detainees.

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

At no time is a member expected to jeopardize his/her safety in order to activate a BWC. However, the BWC shall be activated in the situations described above as soon as practicable. Personnel may also activate a BWC anytime they believe its use would be appropriate and/or valuable to document an incident.

#### **425.4 USE CONSIDERATIONS**

Department members are not required to notify or obtain consent from a private person when recording in a public place or in a location where there is no reasonable expectation of privacy, including the inside of a building or dwelling where personnel are lawfully present and engaged in the performance of official duties. Department personnel are encouraged to advise private persons they are recording if the advisement may gain compliance or assist the investigation and will not interfere with the investigation or officer safety.

Requests by members of the public to stop recording shall be evaluated by weighing the privacy concerns against the value of video evidence. If a department member decides to cease recording, based on a privacy concern expressed by a member of the public, the member shall resume recording when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

#### **425.5 SURREPTITIOUS USE OF THE BWC**

Members of the Department may surreptitiously record any conversation while acting in the scope of his or her authority in which the department member reasonably believes that such a recording will be lawful and beneficial to the investigation. (Penal Code § 633).

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

#### **425.6 CESSATION OF RECORDING**

Once activated, the BWC 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.

When activated, the BWC should not be intentionally terminated until the end of the contact. Any inadvertent early termination of a recording prior to the end of a contact shall be noted in a police report and the circumstances documented.

The BWC recording may be terminated and restarted during a contact based on issues dealing with tactics, strategy, or procedure which may present themselves during the contact. The circumstances of the premature termination shall be noted in a police report.

Members are not required to deactivate a BWC upon the request of a citizen.

## **425.7 SWAT CONSIDERATIONS**

Department members assigned to the Richmond/El Cerrito SWAT team shall follow the BWC use guidelines established by the Richmond Police Department while participating in SWAT training and operations.

## **425.8 PROHIBITED USE OF BODY WORN CAMERA**

Department members are prohibited from using personally-owned BWCs while on-duty without the express consent of the Watch Commander. Any member who uses a personally-owned BWC for department related activities shall comply with the provisions of this policy, including retention and release requirements.

Department members shall not engage in any of the following activities involving the use of department-issued BWCs:

- a. Record sexual assault and child abuse victims during preliminary investigations.
- b. Record strip searches.
- c. Make or create recordings for personal use.
- d. Personally retain recordings of activities or information obtained while on-duty.
- e. Duplicate or distribute recordings except for authorized legitimate department business purposes.
- f. Record any personal conversation between department members.
- g. Record meetings with Confidential Informants.
- h. Use any recording for the purpose of embarrassment, intimidation or ridicule.

## **425.9 RETENTION OF RECORDINGS**

Anytime a department 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 transfer the file in accordance with current procedure for storing digital files. The member shall document the existence of the recording in the related case report. The member will leave the recording in the un-categorized file if the recording is not connected with a case report. Transfers should occur at the end of the member's shift or any time the storage capacity is nearing its limit, if this occurs prior to the end of a member's shift.

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.

## **425.10 RETENTION REQUIREMENTS**

All recordings shall be retained for a period consistent with the requirements of the department's records retention schedule but in no event for a period less than 366 days. Evidence recordings will be retained for a minimum of 366 days after which time they may be erased, destroyed or recycled in accordance with the established records retention schedule (Government Code 34090.6)

## **425.11 REVIEW OF RECORDINGS**

All recording media, recorded images and audio recordings are the property of the El Cerrito Police Department. Dissemination outside of the agency is strictly prohibited, except to the extent permitted by law.

When preparing written reports, members may 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.

To prevent damage to, or alteration of, the original recorded media; it shall not be copied, viewed or otherwise inserted into any device not approved by the department BWC technician. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Once uploaded to the storage server, department members may review their own audio/video data at a department desktop computer. Members shall document the reason for access in the system prior to viewing any data. Access is automatically time and date stamped and the system records the name of the accessing party.

An employee may review their BWC files only as it relates to their involvement in:

- a. Completing or assisting in a criminal investigation.
- b. Preparing official reports.
- c. Preparing for courtroom testimony.
- d. Preparing for courtroom presentations.

A department member involved in a law enforcement fatal incident may review BWC files in a manner consistent with the “Contra Costa County Law Enforcement Involved Fatal Incident Protocol.”

## **425.12 BWC COORDINATOR**

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

- a. Establishing a system for downloading, storing, and securing recordings.
- b. Designating persons responsible for downloading recorded data.
- c. Establishing a maintenance system to ensure availability of operable portable audio/video recording 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.
- f. Establishing a system to ensure chain of custody and evidence integrity.
- g. Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.

- h. Maintaining logs of access and deletions of recordings.
- i. Establishing a department liaison with the District Attorney's Office