

Body Worn Cameras and Audio Recorders

425.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this Office while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

The purpose of body worn cameras (BWC) and audio recorders is to provide documentary evidence for criminal investigations, internal or administrative investigations and civil litigation. Members shall utilize the BWC's and audio recorders in accordance with the provisions in this policy to maximize the effectiveness of the audio/video documentation to achieve operational objectives and to ensure evidence integrity.

While BWC recordings can provide an objective record of events, it is understood that video/audio recordings may not necessarily reflect the entire experience or state of mind of the individual employee(s) in a given incident. In some circumstances, the BWC will capture information that may not have been heard and/or observed by the involved employee(s). Similarly, there will be situations where the BWC will not capture information that was heard and/or observed by the involved employee(s).

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Sonoma County Sheriff's Office facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

425.2 POLICY

The Sonoma County Sheriff's Office will provide sworn members with BWC's for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Office by accurately capturing contacts between members of the Office, the public, and those incarcerated in the Sonoma County Detention Facilities.

425.3 COORDINATOR

The Sheriff or the authorized designee shall appoint a member of the Office to coordinate the use and maintenance of BWC's and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing and security of 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 and ensure chain of custody integrity.

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- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.

425.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any office-issued device at any time, and any recording made while acting in an official capacity for this office, regardless of ownership of the device it was made on, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

425.5 MEMBER RESPONSIBILITIES

The Sonoma County Sheriff's Office Law Enforcement and Detention Divisions will issue sworn deputies and sergeants BWC's.

- (a) Uniformed personnel will be responsible for making sure that he/she is equipped with a BWC prior to going into service and for ensuring the BWC is in good working order. If the BWC is not in good working order or malfunctions at any time, the member shall report the failure to his/her supervisor and obtain a functioning device as soon as practicable.
- (b) Uniformed members shall wear the recorder in a conspicuous manner and in such a way that will not be obstructed by clothing.
- (c) Extra help Deputy Sheriff's will not be issued BWC's unless they are assigned to the Civil bureau or unless approved by the BWC administrator Lieutenant.
- (d) Non-uniformed personnel may carry, and use, an approved BWC any time the member believes such a device may be useful. Non-uniformed field training officers who are in the final phase of training are required to wear BWC's.
- (e) Members are encouraged to advise private persons and inmates they are recording if the advisement may gain compliance or assist in the investigation, and it will not interfere with the investigation or officer safety (i.e., a hostile contact during a traffic stop).
- (f) All specialty units are required to use BWC's as set forth in this policy, except the following units:
 - 1. Explosive Ordinance Detail Unit
 - 2. Helicopter Unit
 - 3. Honor Guard
- (g) Any BWC that contains recordings shall be docked and uploaded daily. Practically speaking, this can occur within a 24 hour period of time. Case by case exceptions may be made with the prior approval of a supervisor.
- (h) Any uniformed member who desires to carry an audio digital recorder (in addition to the BWC) may do so for the purpose of surreptitiously recording if the member determines it would be beneficial for the investigation. An example of this could be placing an audio

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recorder in the back seat of a patrol car to record a suspect, etc.. Uniformed members are not allowed to carry an audio digital recorder in place of the Office issued BWC.

- (i) If an audio recording of evidentiary value is obtained from an audio digital recorder from either a uniformed, or non-uniformed member, a copy of the recording shall be entered into evidence.
- (j) The wearing or use of any other personal **video** recorder, other than the BWC, is not authorized. However, during an exigent circumstance with a high evidentiary value, where the BWC is either unavailable or becomes non-functional, and the member has access to an alternative means of recording the incident (cell phone, etc.), the member may use his or her discretion to record the incident on the alternate recording device. In this case, a copy of the video recording shall be entered into evidence and the member's supervisor shall be notified of the recording. This section applies to both uniformed and non-uniformed members.
- (k) Members shall document the existence of a recording in any report, citation, or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. The reason for not recording an incident required by this policy shall be documented in the report.
- (l) Only trained personnel shall operate BWC equipment.

425.6 ACTIVATION OF THE BWC

This policy is not intended to describe every possible situation in which the BWC should be used, although there are many situations where its use is appropriate. Unless, it would be unsafe, impossible, or impractical for the situation, members are required to activate their BWC prior to making contact when responding to all calls for service, and during any law enforcement related encounters and activities that occur while the member is on duty. Examples include, but are not limited to:

- (a) All enforcement and investigative contacts including arrests, pursuits, suspicious persons, detentions, and field interview (FI) situations.
- (b) Traffic stops including, traffic violations, traffic collisions, and stranded motorist assistance.
- (c) Probation or parole searches.
- (d) Service of search or arrest warrants.
- (e) Self-initiated activity in which a member would normally notify the Dispatch center.
- (f) During suspect interviews, Miranda Rights or 5150 W&I advisements, and obtaining verbal consent to search.
- (g) During building searches, searches for suspects, and building checks at alarms.
- (h) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
- (i) Any use of force or tactical intervention.
- (j) BWC's shall remain activated during detainee and/or arrestee transports.

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- (k) Entering a cell occupied by an inmate.
 - 1. Exception: Directly supervising a housing unit or conducting general observation and intensive observation checks, unless a situation arises that dictates otherwise.
- (l) Anytime an inmate is forcibly removed from their cell.
- (m) Responding to inmate fights or disturbances, restraint chair placements and movement of an assaultive or uncooperative inmate.
- (n) Inmate experiencing a medical emergency or a Mental Health crisis.
- (o) There may be additional circumstances which dictate the need for BWC activation such as the inmate becoming uncooperative or resistive, or the possibility of an allegation of misconduct that arises from the contact after the initial contact begins.
- (p) Correctional Deputies shall not record inmates while conducting a strip search, conducting classification interviews, during a routine medical treatment that is provided to an inmate, or during inmates' use of toilet or shower. Members may activate the BWC when the recording serves a legitimate business need. A supervisor may direct members use of the BWC during specific incidents or events. Members shall document the use of a BWC in their written incident report.

The Detention Division is required to activate their BWC's prior to making contact with inmates during specialized emergency response callouts and crisis negotiations.

At no time is a member expected to jeopardize his/her safety in order to activate a BWC. However, the BWC should be activated in situations described above as soon as reasonably practicable.

Members assigned to the Patrol Division are required to have their BWC in buffering mode whenever they are outside of a secured Sheriff's Office facility.

Members assigned to the Detention Division are required to have their BWC in buffering mode whenever they are on duty, on the secured facility side and are outside of Central Control.

425.6.1 CESSATION OF RECORDING

Once activated, the BWC shall remain on continuously until the member reasonably believes that his/her 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.

Members can deactivate the recording for purposes of conducting interview with crime victims, confidential informants, or witnesses who do not wish to be recorded. Examples of this can include witness interviews or victim interviews on sensitive cases (e.g., sexual assault, child abuse, etc.). Members shall include the reason for the deactivation in their report.

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

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same criterion. Recording should typically resume once the identified privacy concern has been addressed and/or resolved.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

425.6.2 SURREPTITIOUS USE OF THE BWC

Members of the Office 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 office member without a court order unless lawfully authorized by the Sheriff 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 BWC

Members are prohibited from using office-issued BWC's 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 office-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. Any member who uses a personally owned recorder for office-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

425.7.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Penal Code § 832.19).

425.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

Members using the BWC's shall identify each recording by category as outlined below. Not all BWC recordings will be required to be categorized in Evidence.com. However, if a case number

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is attached to the event, the event shall be recorded and the metadata associated with that event shall be entered into Evidence.com. In the event a recording does not fall into a listed category and has no apparent evidentiary or administrative value, the member may leave the recording as uncategorized.

The following categories are available to Law Enforcement and Detention Divisions on Evidence.com:

- (a) Arrests and Citations - If an arrest or citation occurs, the user shall choose this category and complete the necessary information in Evidence.com.
- (b) Citizen's Complaint - This category will typically be used by supervisors who are investigating a Citizen's Complaint. The user should complete the necessary data within Evidence.com.
- (c) Critical Incidents - In the event of a Critical Incident, a supervisor shall upload the recording to Evidence.com as soon as practical. The supervisor should select the Critical Incident category and complete the necessary data. All Critical Incidents will be "Flagged". This category will be used for OIS's and in Custody deaths.
- (d) Crime Reports - This category shall be selected for all reports taken and the necessary information shall be entered into Evidence.com.
- (e) Training Demo - This category can be selected by the user to document training recordings.
- (f) Use of Force - Anytime there is a Use of Force captured on a recording, the user shall select this category and complete all the data in Evidence.com.
- (g) Uncategorized - Any recording that is uploaded where a category is not selected will automatically default to the uncategorized category.
- (h) Coroner's Case - Any video or photo pertaining to a Coroner's Investigation.
- (i) Informational/Incident Report - Any report taken by LE or Detention Division for documentation purposes only.
- (j) Interview - To be used for interviews pertaining to investigations.
- (k) Litigation Hold - To be used for securing videos, photos, calls for service pertaining to pending litigation.
- (l) Missing Persons - This category shall be selected when taking a missing person report.
- (m) Restricted - This category shall be used by Sergeants and above. This category blocks others from viewing.
- (n) Sealed Juvenile Records - Used in records roll to identify Juvenile Body Worn Camera videos, photos, or other data stored on Evidence.com.
- (o) CNT - All crisis negotiations inside the detention facilities.
- (p) SERT Activation Detention - All SERT activations inside the detention facilities.
- (q) Pending Review - All recordings waiting to be assigned a category.

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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 minimum of three years and 1 day.

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

425.9 REVIEW OF RECORDED MEDIA FILES

Access to the recordings is managed on a need to know, right to know basis. All access to the system at Evidence.com is logged and available for audit purposes. Members authorized under this policy may review recordings according to the provisions of this policy.

Once uploaded to Evidence.com, members may only view recorded data at Sheriff's Office authorized computers or MDC's. The member should document the reason for access in the "Notes" section prior to viewing any data. Evidence.com automatically time/date stamps and records each access by employee name.

In order to maintain the ability to conduct thorough and effective investigations and incident reviews involving sexual abuse, sexual harassment, and other misconduct, appropriately trained internal and external investigators, and senior facility and agency administrators are not prohibited by the Prison Rape Elimination Act, Standard 115 from viewing cross-gender recorded camera footage in conjunction with an investigation or incident review.

A member may review recorded files as it relates to:

- (a) Their involvement in an incident for the purposes of completing a criminal investigation and preparing official reports or incident reports. Members should not use the fact that a recording was made as a reason to write a less detailed report.
- (b) Prior to courtroom testimony or for courtroom presentations.
- (c) Providing a statement during an administrative inquiry.
- (d) For potential training purposes.
- (e) Viewing of video and audible recording: Deputies shall be allowed to view any video or audio recordings captured by them prior to being interviewed or the completion of an Incident Report.
- (f) Generally, non-supervisory personnel will not have access to other employees' BWC recordings unless requested for a legitimate law enforcement investigation or purpose.
- (g) In response to court orders, subpoenas, public records act (PRA) requests, etc., a member's BWC recording(s) may be reviewed by Sheriff's Office members who have a

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legitimate law enforcement reason to view the BWC recording (Custodian of Records, BWC Administrator, Command Staff, etc.).

Exception: Administrative users of Evidence.com may access Evidence.com from a computer or device outside of the Sheriff's Office for the purpose of completing administrative tasks, such as viewing recordings on sensitive cases when a Sheriff's Office computer is not available, locking or unlocking users, etc.

425.10 SUPERVISOR REVIEW OF RECORDINGS

Supervisors are required to review video known to have captured incidents related to the Use of Force and Vehicle Pursuits involving members directly supervised by them at the time of the incident, prior to the end of their shift unless approved by the Watch Commander.

- In cases where the Patrol supervisor reviewing the incident is not the regularly assigned supervisor assigned to the area in which the incident occurred, (eg. a Main Office supervisor reviewing a substation deputy's video during night time hours) the regularly assigned supervisor may also conduct a review of the video to brief themselves on the incident and document the incident in the appropriate Office records system.
- Supervisors are further authorized to review relevant recordings of a member they are directly supervising any time there is good cause to believe a member or another deputy captured on video engaged in:
 - Failure to perform their duties in accordance with Office standards of professional conduct
 - Misconduct or a violation of Office Policy
 - Performing with meritorious conduct

Supervisors shall place comments in the tracking area of Evidence.com denoting the purpose for their review of any video.

425.10.1 RELEASE OF BWC RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

425.10.2 REQUESTS FOR DELETION OF A RECORDING

In the event an employee becomes aware of an accidental or inadvertent activation of the BWC, or training recordings that do not contain evidentiary value, the recording employee shall request that the BWC file be deleted by submitting an e-mail request with sufficient information to locate the BWC file to the system administrator who shall review the file and approve or deny the request.

425.11 CRITICAL INCIDENTS

Supervisors should take custody of a BWC as soon as practical when the device may have captured an incident involving an officer-involved shooting, death, or other serious incident, and ensure the data is downloaded (penal Code § 832.18).

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- (a) All BWC recordings shall be uploaded to the server as soon as practical.
- (b) The Sheriff's Office will follow the procedures and guidelines set forth in the Sonoma County Chief's Association Policy 93-1: Employee Involved Critical Incident Protocol.