

**RIVERSIDE COUNTY SHERIFF'S DEPARTMENT
STAN SNIFF, SHERIFF**

TO: All Personnel

DATE: January 26, 2016

FROM: Stan Sniff, Sheriff

Department Directive #16-003

RE: Body Worn Camera Systems – Field Operations

I. Background:

Due to technological advances over the last number of years, nearly everyone is routinely captured on recorded video as they go about their everyday business. The ability to record video and audio is now commonplace, built into most every consumer mobile device. The use of body worn camera (BWC) systems by law enforcement has also become commonplace, with law enforcement video segments being shown in nearly every television news broadcast and on the Internet. Under the realization that others are constantly recording Department members in the course of their duties, the Sheriff's Department recognizes the benefit for our employees and the public for law enforcement personnel to have the ability to make videos that show their potentially critical viewpoint of events taking place in their presence. Individual patrol operations within the Department have used video and audio recordings in the past to document public contacts and record evidence; however, with the surging growth in the use and availability of high-quality recording devices, the time has come for the Department to formalize and standardize the policies governing BWC recordings created during the course of duty. The Department assembled a committee composed of employees of various ranks assigned to research, analyze, and put forth their best recommendations, and has completed extensive field testing of the selected BWC device. This directive summarizes the best practices derived from this process.

II. Policy:

The Department intends to continue issuing Department-assigned BWC devices in accordance with a fielding plan designed to ensure all uniformed Field Operations personnel are assigned a BWC system as resources and inventories permit. Once issued a Department-assigned BWC device, Department members shall use that Department-assigned BWC device while on duty as outlined in this directive. Other Field Operations personnel may also be assigned a BWC device at the discretion of their Bureau/Station Commander, and shall also follow the policy established in this directive when using that device.

Field Operations personnel may use a personally-owned video recording device only if a Department-assigned BWC has not been issued to the employee and the employee has received prior approval from the Bureau/Station Commander for the use of such personal video recording device. Once issued a Department-assigned BWC device, Department members are prohibited from wearing or using any personally-owned video recording devices while on duty. All usage of video recording devices while on duty must comply with the requirements set forth in this Department Directive.

The use of assigned BWC devices is designed to assist and complement the performance of patrol duties by providing an unbiased record of events. It is anticipated the recordings the devices produce will:

1. Advance law enforcement objectives related to gathering and collecting evidence consistent with current technology, standards and public demands;
2. Supplement and corroborate written reports;
3. Protect Department members from unfounded allegations of misconduct;
4. Reduce litigation;
5. Provide physical evidence to supplement what is seen or heard by employees; and,
6. Foster positive relations with the communities we serve through improved transparency.

III. Department Record:

All recordings made by Department members during the course of their duties, including media, images, and audio, are a record of the Riverside County Sheriff's Department. BWC recordings are to be considered investigative records. Copies, in any format, shall not be made outside the parameters of this directive. Recordings shall be governed by the provisions of General Orders 1201.05 and in accordance with law. BWC recordings shall not replace employee investigative notes taken at the scene. Department members shall have no expectation of privacy or ownership interest in the content of these recordings.

IV. Basic Responsibilities:

Prior to going into service, patrol personnel assigned a BWC device shall ensure the device is in good working order. If a recording device is not in working order or malfunctions at any time, the Department member will notify a supervisor of the problem. The supervisor will make arrangements for repair or replacement as soon as practical.

When in uniform, employees shall wear their assigned BWC device clipped to their shirt in the mid-chest area or secured in a similar manner that allows the device to capture the wearer's viewpoint to the maximum extent possible. When not in uniform, the wearer should wear or place the camera in a manner to best capture the intended video viewpoint.

Department members shall document the use of a BWC device and the existence of a recording in the narrative when authoring any report or memorandum concerning a recorded incident or event.

V. Recording Protocols:

Officer Safety takes precedence over recording events. Department members must never jeopardize their safety in order to activate or retrieve a recording device. If a Department member is not able to safely activate their recording device due to exigent circumstances, the Department member shall activate their recording device at the first available opportunity.

Personnel assigned a BWC device shall generally initiate a recording prior to contacting or detaining people in the course of their duties. Once a recording is initiated, a continuous recording of the event

must take place until completion of the incident or contact. BWC recordings shall be made of any law enforcement action where there is reason to believe it would be appropriate and valuable to record the event. Examples of these types of events include:

1. Citizen contacts, such as traffic stops, pedestrian checks, or flag-downs;
2. Pursuits or failure-to-yield situations;
3. Detentions or arrests, including the service of warrants;
4. Searching a person or property;
5. Evaluation of mental illness or incapacity;
6. Evaluation of being under the influence of drugs or alcohol;
7. Any disputes, disturbances or exhibition of violence;
8. When viewing items or witnessing events of evidentiary value;
9. When directed to record by a supervisor.

If a Department member assigned a BWC device fails to initiate or substantially delays the initiation of a recording during an event specified above, either intentionally or accidentally, the reasons shall be documented in a subsequent report or memorandum.

Investigators, when working non-uniformed assignments, and employees conducting undercover operations, may exercise discretion as to how or when to wear or utilize a BWC device unless otherwise directed by a supervisor. Personnel shall not use BWC devices to record communications or discussions with co-workers or supervisors, non-work related activity, non-law enforcement contacts, or tactical operations conducted by SWAT.

VI. Stopping Recordings:

Once activated, a BWC recording shall not be terminated until the conclusion of the encounter unless tactical or practical reasons dictate otherwise. If it is necessary to terminate a recording during an incident or contact, the Department member shall document the reasons in a subsequent report or memorandum. Any BWC recording temporarily stopped for any reason shall be reinitiated when the reason for stopping the recording has ended.

VII. Informing Persons:

In most cases, personnel are not obligated to inform members of the public that a recording has been initiated. If asked, personnel shall advise members of public they are being recorded unless it compromises a criminal investigation.

Personnel are not required to initiate or cease recording an event, situation or circumstance solely at the demand of a member of the public. If a member of the public requests not to be recorded, the Department member shall consider the necessity to record the event. Any decision to stop a recording upon request from a member of the public should be made after careful consideration of the video's potential evidentiary value, liability and protection of the Department, as well as the requesting person's privacy.

Department members and supervisors involved in the investigation of a personnel complaint against a member of the Department must inform complainants and witnesses they are being recorded.

VIII. Surreptitious Use of Portable Recorders:

Penal Code Section 632 prohibits an individual from surreptitiously recording a “confidential” conversation in which any party to the conversation has a reasonable belief that the conversation is private or confidential. However, Penal Code Section 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation. Department members may surreptitiously record any conversation during the course of a criminal investigation where there is reason to believe that such recording will be lawful and beneficial to the investigation. However, per Penal Code Section 636, Department members shall refrain from recording conversations between a person in custody, or on public property, and their attorney, religious adviser, or physician in any situation in which that person would possess a reasonable expectation of privacy.

Department members are prohibited from knowingly recording other Department members without their knowledge unless they are engaged in official enforcement duties. If a Department member accidentally records another member of the Department in a place or situation where the recorded Department member has a reasonable expectation of privacy, the member who made the recording shall notify a supervisor of the recording as soon as they become aware the recording exists. That supervisor shall view the video, ensure there is not good cause to retain the video, advise the recorded employee, and offer them the opportunity to view the recording. If deleting the video from storage would not interfere with the integrity of a recorded incident or is not related to an investigation or citizen contact, the reviewing supervisor shall make a written request for deletion of the video to the Bureau/Station Commander. Only the Bureau/Station Commander may approve the removal of a recorded incident. Nothing in this section is intended to interfere with a Department member’s right to openly record any interrogation pursuant to Government Code Section 3303(g).

IX. Locations of Privacy:

Residences – Private Citizens have a reasonable expectation of privacy within their own homes. However, when law enforcement officers are lawfully present in a private residence during the course of a criminal investigation or under exigent circumstances, this expectation of privacy no longer exists. Therefore, patrol personnel shall initiate BWC recordings, when in residences under these circumstances, per the recording protocols.

Medical Facilities – Patrol personnel shall avoid initiating a BWC recording in a medical facility where persons are receiving treatment unless they are conducting a criminal investigation or responding to exigent circumstances. If medical staff requests that a Department employee not record while inside a medical facility, and no exigent circumstances exist, the camera shall be turned off.

Jail Facilities – Patrol personnel shall avoid initiating a BWC recording in a jail facility unless they are performing a criminal investigation or responding to exigent circumstances. Patrol personnel shall continue to record whenever they bring an arrestee into the jail for booking who is displaying uncooperative or hostile behavior until the point the person is removed from their presence. Requests

to otherwise record within any jail facility shall be approved by a Jail Commander or designee prior to the event unless exigent circumstances dictate otherwise. Department members who enter any jail facility while recording shall notify jail staff.

Restrooms, Dressing Rooms, Locker Rooms – Department members shall not initiate recordings inside restrooms, dressing rooms, or locker rooms unless they are conducting a criminal investigation or responding to exigent circumstances.

X. Interviews:

Suspect Interviews – BWC devices should be used to record preliminary investigative interviews and formal interviews of persons when there is a reasonable belief the person has committed a crime. This guideline does not apply when the interview is already being video recorded in an interview room.

Confidential/Anonymous Informants – The ability to freely receive confidential information from citizens and maintaining public trust are important to the Department; therefore, persons who confidentially provide information for law enforcement purposes should generally not be recorded using BWC devices.

Victims – Personnel should be mindful of the appropriateness and possible effect of using BWC devices to record victims of domestic violence, victims of sexual assault, and juvenile victims.

XI. Transfer Protocols:

All recordings shall be downloaded on a daily basis via designated Department computers. Patrol personnel should allow themselves sufficient time to download files at the end of their shift to avoid incurring unnecessary overtime expenditures. All Department policies regarding the use of overtime will apply.

Recordings may be copied for use in criminal and/or administrative investigation reports and shall follow the retention period for that particular record when used for those purposes. Recordings not initially identified as evidence will be maintained as records of investigation for a period of thirteen (13) months in compliance with California Government Code Section 26202.6 and as provided in the current records retention schedule approved by the Board of Supervisors pursuant to Board Policy A-43 unless a need arises to keep individual records for a longer period (such as for audit, active or likely litigation, formal litigation hold or open records request, department head certification as to specified business need, etc.).

Department members shall not copy, possess, alter, or disseminate unauthorized recordings for any reason. Copies made as evidence in a known investigation will be processed, logged and secured in a Department Evidence Room in the same manner as recordings obtained from other sources. Copies made for non-evidentiary purposes shall be approved in advance by the Bureau/Station Commander. Members shall not obtain or attempt to obtain copies for their personal use or the personal use of others. Members shall not disclose information gleaned from the recordings unless in the course of official duties.

If a Department member believes a recording exists and it may be of importance to the Department, the Department member shall notify their supervisor of its existence.

XII. Viewing of Recordings – Department Members:

Except for those situations otherwise constrained in this directive, Department members will generally be allowed to review recordings for the following reasons:

1. To test the device to ensure it is working properly;
2. To assist in the writing of a report or in furtherance of a criminal investigation;
3. By an investigator for the purposes of a criminal investigation;
4. By an authorized supervisor/investigator participating in an official investigation or inquiry of a personnel complaint, administrative investigation or criminal allegation;
5. By an authorized supervisor for the purpose of performing a service audit.

Anytime a Department member reviews a recording pursuant to a criminal investigation or in authoring a report or memorandum, the viewing person shall document in a report the fact that a recording was viewed.

Whenever a BWC device is present during a critical incident, such as an officer-involved shooting or a pursuit or use of force incident resulting in death or serious bodily injury,¹ the wearer, whether an involved party or witness, shall notify an on-duty supervisor, who shall secure the device until turned over to an investigator assigned to the incident. The BWC recording will be downloaded to the system as soon as is practical and access to any recording shall be restricted.

No Department member involved in a critical incident under investigation may review any BWC recording of the event until authorized to do so by the investigator assigned to conduct the investigation. Prior to reviewing any BWC recording of the critical incident, the involved Department member shall author a brief written or oral report that includes the following relevant facts related to the Department member's knowledge, observations, and actions as they relate to the critical incident:

- The threat perceived, limited to any known facts or situations leading to the use of force;
- The need for the use of force;
- The suspect's actions that contributed to the decision to use force; and
- The amount of force used.

¹ Penal Code § 243(f)(4) "Serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

Once the written or oral report containing all the items listed above is submitted, and prior to writing a detailed report of the incident, or submitting to a detailed oral interview in lieu of a report, the involved Department member shall be permitted to review the BWC recordings made on the device they used during the critical incident. The employee may have their representative present during the review of the BWC recording and will be afforded the opportunity to privately consult with their representative if desired. Thereafter, the Department member will supplement their initial written or oral report with a detailed report of the incident, or submit to an oral interview in lieu of a written report. In critical incidents involving more than one employee, each employee will be allowed to view their individual recording separately; no review may be conducted jointly among involved employees. Employee review of recordings from all sources other than the BWC they wore and used during a given incident may be permitted at the discretion of the assigned investigator.

Where the Department is conducting an investigation into employee conduct not involving a critical incident, a supervisor shall determine if BWC recordings of the event in question exist, and if so, restrict access to the stored file. If a BWC device worn during any event in question has not been downloaded, the supervisor shall direct any personnel wearing a BWC device during the event to download the device and not to view any related recordings.

Where the Department is conducting an investigation into employee conduct not involving a critical incident, the assigned investigator shall permit the Department member to review the BWC recording made by the device they personally wore during the incident prior to providing a compelled statement. The employee may have their representative present during the review of the BWC recording and will be afforded the opportunity to privately consult with their representative if desired. In the event the matter under review involves more than one employee, each employee may be allowed to view BWC recordings made by a device they wore during the incident separately. No review may be conducted jointly among involved employees. Any recordings reviewed in response to allegations of misconduct may subsequently be used as part of any resulting investigation or civil proceeding.

XIII. Viewing of Recordings – Members of the Public or Media:

Recordings will not be shown to members of the public without the approval of the Bureau/Station Commander. Media requests to make or receive copies of recordings must be approved by a Chief Deputy. Prior to the public release of a recording containing the image of a readily identifiable Department member, that Department member will be notified of the pending release whenever it is practical to do so.

XIV. Records Requests:

BWC recordings are investigative records. All requests for the release of recordings will be handled in accordance with applicable state and federal laws. All recording releases by the Department by virtue of the California Public Records Act, court order, or subpoena shall be handled by Sheriff's Administration.

XV. Station Responsibility:

Each station will be responsible for developing and implementing specific operating procedures to govern the care and download process for the BWC devices assigned to that station. The operating procedures should include storage details, as well as the retrieval process for criminal investigations, civil litigation, or administrative reviews.

The Bureau/Station Commander shall be responsible for designating a supervisor as the Bureau/Station BWC Program Administrator. The BWC Program Administrator shall be responsible for issuing a recording device to each Department member working uniformed patrol at that station as they become available according to the fielding plan, and may assign BWC devices to other Department members as directed by the Bureau/Station Commander. An assigned BWC device and any recordings shall remain the property of the Department and, upon a Department member's transfer or separation from service, the BWC device shall be returned to the BWC Program Administrator.

The BWC Program Administrator shall be responsible to ensure any Department members issued a BWC device are trained on the proper use of the BWC device and the BWC policy. All Department members shall be provided a copy of the BWC policy as part of their BWC training. This training, and receipt of a copy of the policy, shall be documented in the Department member's training record. Supervisors responsible for any shift or team with Department members who have been assigned BWC devices shall conduct roll call training at least quarterly on the policy expectations, use, and maintenance of the BWC equipment.

SS:rg
