

SAN DIEGO POLICE DEPARTMENT PROCEDURE

DATE: March 9, 2016

NUMBER: 1.49 - ADMINISTRATION

SUBJECT: AXON BODY WORN CAMERAS

RELATED POLICY: N/A

ORIGINATING DIVISION: OPERATIONAL SUPPORT

NEW PROCEDURE:

PROCEDURAL CHANGE:

SUPERSEDES: July 8, 2015

I. PURPOSE

This Department procedure establishes guidelines for Department members using body worn cameras and procedures for preserving the digital media in Evidence.com.

II. SCOPE

This procedure applies to all members of the Department.

III. BACKGROUND

Law enforcement's use of in-car cameras and 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 Body Worn Camera system operates on rechargeable battery power for up to twelve hours of continuous buffering and records up to ten hours of continuous video and audio media. The user can view recordings and add metadata from monitors, computers, and smart phones by downloading a specific software application.

IV. DEFINITIONS

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

Buffering Mode or Standby Mode – The 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.

Event Mode – When the Event button on the BWC is activated and the camera is recording both audio and video. The buffered video (not audio) captured directly before the event will be saved and attached to the event in permanent memory. Repeated pressing of the Event button turns the recordings on and off and creates separate media segments.

BWC Program Administrator (Operational Support) – Police Department program administrator for Evidence.com and TASER Axon camera system with full access to user rights and sets user access and parameters.

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

Taser’s Evidence Docking Station (EDS) – A portable multi-ported docking station installed at area commands. The EDS simultaneously recharges the BWC while uploading all digitally encrypted data from the device. The docking station then transfers the digitally encrypted data to Evidence.com.

Evidence.com – A digital evidence management service contracted for the city and accessed at Sdpd.evidence.com. The service stores digitally encrypted data in a highly secure environment accessible to personnel based on security clearance.

Metadata – Case numbers, Incident numbers, and other descriptors used to identify digital evidence. There are 12 searchable fields into which this metadata can be entered.

V. PROCEDURE

A. Officer safety and public safety take precedence over recording events.

Officers shall follow existing officer safety policies when conducting enforcement stops as outlined in Department policies and procedures. Officer safety and the safety of the public shall be the primary considerations when contacting citizens or conducting vehicle stops, not the ability to record an event.

B. Body Worn Cameras shall be used to capture audio and visual evidence for investigations and enforcement encounters. Officers shall not provide narration

or dictate their actions to the camera. Detailed police reports are still required and are the appropriate place to document the totality of the circumstances for the incident.

C. General

1. Only authorized personnel shall use or be in possession of a BWC device.
2. All officers issued a BWC are required to wear and use their BWC while working in any uniformed assignment. This applies to overtime assignments, out of class assignments and special details (11-86).
3. BWC equipment is for official use only and shall not be utilized for personal use.
4. Officers shall not tamper with or dismantle any hardware or software component of any BWC device.
5. The use of any other personal recording device for the same purpose is not authorized without permission of the Chief of Police or designee.
6. All digital evidence collected using the BWC is considered an investigative record for the San Diego Police Department and is for official use only.
7. 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 designee.
8. 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 device to record or capture digital evidence from Sdpd.evidence.com is strictly prohibited.

D. Storage

When not in use, the BWC devices shall be stored in the designated EDS. Officers shall ensure the BWC is properly seated into the EDS to allow for proper downloading, charging, and updating.

E. Pre-shift inspection

1. Officers shall inspect their assigned BWC devices daily to ensure there is no visual damage and the device is in working order.

2. Visual damage shall be logged on to the officer's MCT (Mobile Computer Terminal) as a journal entry.
3. Inoperable equipment shall be tagged and returned to Operational Support immediately. If Operational Support is closed, the equipment shall be returned by the start of the officer's next work day.

F. Camera Position

Officers shall wear the BWC above the midline of their torso. Officers shall utilize their viewers to ensure the BWC is in a position where the field of view provides for effective recording. Officers shall not intentionally obscure the view of their body worn camera.

G. Equipment Repair, Replacement, and Maintenance

1. When a BWC malfunctions, the officer will notify his or her supervisor and Operational Support.
2. The officer will note the nature of the malfunction in his or her journal.
3. The inoperable equipment will be taken to Operational Support for repair immediately. If Operational Support is closed, the equipment shall be returned by the start of the officer's next work day.
4. If Operational Support 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 Operational Support and performed through an authorized service provider.
5. This procedure will be followed for all BWC related equipment and accessories.

H. Privacy Concerns and Advisements

1. 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. 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. Therefore, officers are not required to give notice they are recording. However, if asked, officers shall advise citizens they are being recorded.
2. Officers are not required to initiate or cease recording an event, situation or circumstance solely at the demand of a citizen.

3. Officers and supervisors involved in the investigation of a complaint against a member of the police department must inform complainants and complaint witnesses they are being recorded.

I. Mandated Recordings

1. Enforcement Related Contacts

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- a. All officers who are issued a BWC shall keep their BWC on Buffering Mode/Stand-by Mode while on duty, except during instances listed in this procedure under Prohibited Recordings. Keeping the BWC on Buffering/Stand-by Mode allows officers to capture pre-event recordings when the Event Mode is activated.
- b. 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 or the contact transitions from an enforcement contact into intelligence gathering.
- c. Officers are strongly encouraged to inform citizens they are being recorded in an effort to de-escalate potential conflicts.
- d. Enforcement related contacts include 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.
- e. Covering another City employee or law enforcement officer during an enforcement contact, including, but not limited to, PISOs, Parking Controllers, etc.
- f. Officers working plain clothes assignments are exempt from this policy.

2. Arrests

- a. Officers may stop recording in the event mode when the arrestee is cooperative and safely secured inside a law enforcement facility. If an arrestee becomes uncooperative, or if there is some evidentiary purpose, officers should resume recording in the event mode.

- b. If an officer resumes recording in the event mode, the camera shall remain in event mode until the officer no longer has contact with the subject.

3. Searches

- a. When searching a prisoner and without sacrificing officer safety, it is advantageous to position the search so that it is captured on camera. This starts the chain of custody by allowing any contraband or weapons found to be documented on the BWC recording.
- b. Officers should record during the execution of a search warrant, an arrest warrant, a Fourth Amendment waiver search, knock and talk, or a consent search in which the officer is looking for a suspect, evidence or contraband.
- c. During searches of commercial buildings or residential dwellings when there is a strong indication of encountering a suspect, while keeping officer safety as the primary concern, officers should activate their body worn cameras prior to making entry into the building. The recording of a suspect confrontation normally outweighs tactics potentially shown in the recording.

4. Transporting Prisoners

- a. Officers equipped with BWC will record all prisoner or passenger transports, regardless of the gender of the prisoner or passenger. The entire transport will be recorded. Two officer units will be required to record with at least one BWC during transports.
- b. Officers equipped with a body worn camera may transport a female passenger and or prisoner without the required second officer if the body worn camera is recording during the entire transport.
- c. In addition to recording with their BWC, officers transporting female passengers and prisoners shall notify the radio dispatcher of their beginning mileage and ending mileage.

5. Suspect Interviews

- a. Officers are encouraged to fully record suspect interviews. Officers shall not stop and start the recording during a suspect interview.

The only exception to recording a suspect interview would be if the suspect declines to make a statement due to the body worn camera being activated.

- b. When recording interviews, officers shall ensure they record any admonishments prior to the start of an interview.

6. Special Events

When directed to work a special event, officers shall retrieve and use their BWCs. Officers shall comply with the provisions of this Department Procedure.

7. Deactivation of BWC

- a. Officers assigned BWCs will occasionally assist specialized investigative units and agencies in sensitive operations where confidentiality is imperative to the operation. If there is a specific reason in the interest of the investigation for officers involved in the operation to not activate their BWCs, the supervisor in charge must give his or her approval.

- b. Absent any specific reason to not activate the BWC approved by the supervisor in charge, officers shall record any instances listed in this procedure.

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- c. If a supervisor orders an officer to turn off their camera during an enforcement contact, that officer will document that order on an ARJIS-9 explaining the specific reason why the BWC was not activated.

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- d. Additionally, a supervisor who gives an order to an officer to turn off their BWC during an enforcement contact will also be responsible for documenting the reason on an ARJIS-9.

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- e. Officers will always document why the BWC was intentionally deactivated during an enforcement contact.

J. Discretionary Recordings

1. Victim and Witness Interviews

- a. Victim and witness interviews will generally not be recorded.

- b. Domestic violence victims often recant their statements as early as the following morning after a crime. Some victims go so far as to testify that the officer fabricated their statement. Victims may also make their children unavailable for investigators or court to avoid their providing statements. For these reasons, domestic violence victims of violent felonies such as strangulation, assault with a deadly weapon, or anything requiring hospitalization should be recorded. Officers should also record the statements of children of domestic violence victims who are witnesses in these types of cases.
- c. BWCs shall not be used during Sex Crimes or Child Abuse investigations to include statements of victims, witnesses, and interactions with parents of victims.
- d. When necessary to obtain cooperation, officers may position the BWC so they capture only audio, and not video, of the person making the statement.

2. Scene Documentation

Officers occasionally respond to dynamic and chaotic crime scenes. The initial encounters with the victim, and witnesses, including their location and any spontaneous statements made, can be important to the overall investigation. Therefore, officers may use their BWCs to record these types of scenes for evidentiary purposes.

K. Prohibited Recordings

1. BWCs shall not be used to record non-work related activity.
2. BWCs shall not be used to record in areas or activities such as pre-shift conferences, Department locker rooms, break rooms, restrooms, or other activities not related to an enforcement contact or a criminal investigation.
3. BWCs shall not be used during Department administrative investigations.
4. BWCs shall not be used during line-ups or briefings.
5. BWCs shall not be used during major crime briefings, homicide briefings, or during a homicide walk-through.
6. BWCs shall not be used during contact with confidential informants.
7. Patient Privacy

- a. Officers shall not record patients during medical or psychological evaluations by a clinician or similar professional, or during treatment. This includes during PERT 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.
- b. Officers shall not record while in a facility whose primary purpose is to provide psychiatric or medical services unless responding to a radio call involving a suspect or taking a suspect statement.
- c. Officers shall not regularly record while inside jail facilities.
- d. However, in any setting, if confronting a violent or assaultive suspect, or in an anticipated use of force instance, officers shall, when reasonably able to do so, activate their BWCs to record the encounter. BWC should be kept in Buffering/Stand-by Mode prior to the event.

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8. Demonstrations

- a. As a general policy, Department personnel should refrain from video recording or photographing peaceful demonstrations.
- b. 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.
- c. During demonstrations, officers should operate cameras in the buffering/Stand-by mode. If officers witness crimes occurring among the demonstrators and/or believe an arrest is likely, they should begin recording in the Event mode.

9. Officers shall 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. During these contacts, the BWC should be kept in Buffering/Stand-by Mode.

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L. Entering Metadata

Each recorded segment requires metadata be entered, even if the segments are of the same event. All officers are required to add metadata at the conclusion of the

event. The only exception is for officer safety reasons, at which time metadata should be added as soon as possible. Metadata consists of an identification field, retention category, and recording title. If an incident number exists, the complete incident number shall be input into the identification field. Absent an incident number, a citation number or field interview number may be used. Officers shall select the retention category that most accurately fits the recording. Recording titles may vary and include the location, crime type, or suspect name.

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 at Evidence.com.

M. Documentation of Recorded Events

All recordings shall be documented, such as in an ARJIS 9, citation, Field Interview, Traffic Warning, CAD incident history, or the officer's daily journal.

1. ARJIS 2 and ARJIS 8 – Officers shall document the existence of BWC evidence as well as a short description of what the recording depicts in the narrative of the report. Additionally, “BWC Recording” shall be recorded in the Evidence section of the report.
2. ARJIS 9 – Officers shall document the existence of BWC evidence as well as a short description of what the recording depicts in the narrative of the report. Additionally, “BWC Recording” shall be recorded in the Property Tag section of the report.
3. Field Interview Slips and Traffic Warnings – “BWC Recording” shall be recorded in the narrative.
4. Traffic Citations – “BWC Recording” shall be recorded in the case number box near the top of all citations.
5. Other Reports – “BWC Recording” shall be recorded in the narrative.
6. Other Recordings – Non evidentiary recordings, such as inadvertent recordings, recordings initiated for training, or recordings with no associated report shall be documented on the officer's journal.
 - a. Unless writing their own report, cover officers shall notate in their journal, and the CAD incident report. Additionally, they will notify the case agent of an incident that BWC evidence exists and provide a short description of what the recording depicts.
7. Supervisor's reviewing and approving reports shall ensure officers properly document and record events.

N. Impounding Procedures

After verifying the required metadata has been added to all recorded events, officers shall place the BWC into a slot on the EDS and ensure it is properly seated 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 EDS to Evidence.com. The data is considered impounded at this point.

O. Retention of Digital Evidence

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. Officers and detectives are required to ensure that the BWC evidence is properly categorized for the necessary retention period.

P. Accessing Impounded Digital Evidence

1. All those given permission associated with Evidence.com may review digital evidence.
2. Using a Department computer, enter Sdpc.evidence.com in the browser.
3. Enter assigned user name and password. For help with problems, contact the Department Program Administrator in Operational Support Administration.
4. Digital Evidence can be viewed and/or copied from this location.

Q. Reviewing Impounded Digital Evidence

1. Officers may review their own digital evidence. Digital evidence can provide a cue to an officer's priming memory to recall more facts and greater detail of an incident.
2. Detectives are responsible for reviewing, updating and tracking digital evidence associated with their assigned cases.
3. Detectives and personnel assigned to investigative assignments (e.g., NRC Desk) are responsible for forwarding BWC video evidence to either the District Attorney or City Attorney's Evidence.com accounts. Digital evidence will be submitted at the same time the case file is submitted for prosecutorial review.
4. BWCs have a field of vision of either 75 degrees for the Flex or 130 degrees for the Axon. While human beings have a field of vision of 180

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degrees, the human brain has a field of attention of 50-60 degrees. Under stress, this field can narrow down to a ½ degree. Stress also induces auditory exclusion and prevents the brain from analyzing and remembering all the stimuli that it takes in through the senses.

Officers make decisions based on the totality of the human senses. An officer's recollection of specific details may be different than what is captured in digital evidence since BWCs only capture audio and video.

Officers should review digital evidence prior to completing reports to assist in priming their recollection. Officers shall write their reports to what they remember and notate any discrepancies from what the recording shows. Officers shall not write their reports based solely on what they viewed from the BWC recording.

5. Officers shall review digital evidence prior to providing testimony at hearings, trial, or depositions.
6. It is NOT the intent of the Department to review digital evidence for the purpose of general performance review, for normal preparation of performance reports, or to discover policy violations.
7. Digital evidence may be viewed for administrative purposes limited to the following:
 - a. Any incident in which a member of the Department is injured or killed during the performance of their duties.
 - b. Any incident involving the use of force by a member of the Department, including canines, which results in injury or death.
 - c. Any in-custody death.
 - d. Any police pursuit.
 - e. When any member of the Department intentionally or unintentionally discharges a firearm at a person regardless of whether an individual is struck.
 - f. When any member of the Department not involved in training intentionally or unintentionally discharges an ERIW at a person regardless of whether an individual is struck.
 - g. When any member of the Department not involved in training intentionally or unintentionally discharges a Conductive Energy

- Weapon at a person, including the application of a drive stun.
- h. Officer involved traffic collisions.
 - i. Prior to the release of recordings in response to a proper legal request (e.g., in response to a subpoena or other court order).
 - j. In preparation for a civil deposition or responding to an interrogatory where the incident arises from the employee's official duties.
 - k. When preparing to testify in a criminal, civil, or administrative proceeding arising from the employee's official duties.
 - l. For investigations undertaken by the Department, for the purpose of proving or disproving specific allegations of misconduct.
 - m. 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.
 - n. Supervisors should review BWC recordings to assist citizen's complaints. Supervisors have discretion to show BWC recordings to a complainant when it relates to his or her complaint, to assist in clarifying the complaint, resolving the complaint, or having the complaint withdrawn.
8. In situations where there is a need to review digital evidence not covered by this procedure, a captain or higher must approve the request. Each situation will be evaluated on a case by case basis.

VI. 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 suspected during any review of digital evidence, the person who discovered the conduct in question shall immediately notify a supervisor. The supervisor will report the conduct to the officer's commanding officer through the chain-of-command. Nothing in this procedure prohibits addressing policy violations.

VII. COPYING AND RELEASING DIGITAL EVIDENCE

Digital evidence captured by BWC shall be treated as an investigative record and handled pursuant to existing Department policies and procedures.

VIII. USE OF DIGITAL EVIDENCE FOR TRAINING PURPOSES

Officers and supervisors may find it useful, and are encouraged, to review recordings of incidents in 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 receive approval from their commanding officer to contact the Training Captain who will review the digital evidence to determine the value of the incident for training. If the Training Captain determines the incident would be an appropriate training aid, the Training Captain shall obtain approval from the Department Legal Advisor and from the Assistant Chief of Training and Employee Development.

IX. SUPERVISORS RESPONSIBILITIES

A. Sergeant's Responsibilities

1. Sergeants who have personnel assigned to them who wear a BWC are required to conduct monthly inspections. The inspections will assure that the BWC is being used to record enforcement related contacts and other incidents set forth in this procedure. Inspection results will be entered and forwarded to the respective Lieutenant of the division for review and approval.
2. Sergeants will randomly select at least two dates each month, that their employees were working, to inspect the proper use of the officer's BWC. The supervisor will confirm that the number of enforcement contacts match up to the number of videos submitted. If the supervisor identifies a discrepancy, they will follow-up with the officer to determine the reason the videos submitted did not match up with the officer's number of contacts. If the supervisor is satisfied with the reason then no further action is required. If the supervisor feels a violation of this procedure occurred, appropriate action will be taken.

Sergeants will make sure that all BWC videos were uploaded and categorized with the appropriate metadata. All videos that are uncategorized will be immediately corrected by the officer. The supervisor will then re-inspect the BWC video to confirm the corrections were made.

3. If during the inspection, the sergeant determines that the officers BWC is not functioning properly, the BWC will be immediately returned to Operational Support Administration for repair and/or replacement.

B. Lieutenant's Responsibilities

1. Lieutenants will complete a BWC Divisional Monthly Inspection. The inspection form will be completely filled out to include all of the squads who work directly for the lieutenant.
2. Lieutenants will ensure the Sergeant's inspection forms are completed correctly. If a supervisor identifies a discrepancy, the lieutenant will follow up with the supervisor to ensure the discrepancy is corrected.
3. Inspection results will be entered and forwarded to the Captain of the division for review and approval.

C. Captain's Responsibilities

1. Captains will review their divisions BWC Monthly Inspection to ensure compliance of this policy.
2. The Captain will forward the BWC Inspection to their respective Chief.
3. Captains will be responsible for making sure that personnel who return to their command from an extended absence are re-issued a BWC and attend any needed BWC training.

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X. BWC PROGRAM ADMINISTRATOR RESPONSIBILITIES

- A. BWC Program Administrators shall be sworn members assigned to Operational Support. BWC Program Administrators are responsible for performing the following duties:
1. Maintain and troubleshoot the BWC units.
 2. Maintain a record of assigned BWC and related equipment.
 3. Be proactive and able to complete minor repairs.
 4. Arrange for the warranty and non-warranty repair of the BWC units.
 5. Repair or replace BWC components (cameras, docking stations, etc.).
 6. Maintain BWC equipment repair and maintenance records.

7. Update software and system settings as necessary.
8. Train officers on current policy and the proper use of BWC units.
9. Provide official copies of any recording audit trail when properly requested.
10. Provide official copies of digital media when properly subpoenaed.