

Body-Worn Cameras

303.1 PURPOSE AND SCOPE

The Daly City Police Department (DCPD) recognizes the use of Body-Worn Cameras (BWCs) by its officers conveys a sense of law enforcement legitimacy, accountability, and transparency. The DCPD believes video and audio recordings from BWCs will serve as a tool to maintain and enhance the community's trust in the Department. The recordings will capture interactions with the public and provide additional means of evidence collection for criminal investigations, administrative investigations, and civil litigation. In addition, BWCs will serve as a valuable training aid for officers.

While BWC recordings can provide an unbiased and objective account of a police contact, there are limitations to BWC video technology. Specifically, there are inherent differences between how human beings see and interpret their surroundings and how BWCs record video. In some cases, an officer may capture information not observed by a BWC just as a BWC may capture information not heard or seen by an officer. Therefore, it is critical to consider BWC footage as one piece of useful information regarding an incident, just as an officer's experience, state of mind, and input gleaned from his or her other senses would be considered useful information. Where these varied sources of information are combined, a more complete picture of an incident can be obtained.

303.1.1 DEFINITIONS

Manual Activation/Event Mode – Triggering the Body-Worn Camera , which initiates the audio and video recording functions, including the previous 30 seconds of buffered video, excluding audio.

De-Activation – Discontinuing audio and video recording and returning the camera to a standby mode in the on position.

Muting – A function of the BWC that allows for video recording while audio recording is disabled.

Sleep Mode – A function of the BWC that stops buffering and any automatic activation of event mode.

On Position – Switching the on/off switch of the camera into a standby mode which allows the camera, when activated, to capture the previous **30 seconds of** video, excluding audio.

Off Position – The camera does not record any video or audio.

Evidentiary Data – Refers to data of an incident or encounter that could prove useful for investigative purposes, including, but not limited to, a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public (Penal Code § 832.18(c)(1)).

Non-evidentiary Data – Refers to data that does not have value to aid in an investigation or prosecution, such as data of an incident or encounter that does not lead to an arrest or citation, or data of general activities the officer might perform while on duty (Penal Code § 832.18(c)(2)).

Body-Worn Cameras

303.2 POLICY

It is the policy of the Daly City Police Department to utilize BWCs in a manner that will assist in criminal investigations and prosecution as well as civil litigation, by providing a recording of the incident that may supplement an employee's report and help document police conduct, investigations, and enforcement activity.

303.3 MEMBER PRIVACY EXPECTATION

All recordings made by members shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

303.4 PROCEDURE **GENERAL**

All personnel below the rank of Captain will be issued a BWC and are required to wear and use their BWCs while working in uniform. A "uniform" is to be considered the standard uniform of the day based on assignment. This would include, but is not limited to, any apparel (e.g. tactical/raid vests, visible badge and firearm) that identifies the wearer as a police officer.

Exceptions:

It is recognized that employees assigned to a specialized unit or a task force could face several practical and operational challenges that may, on occasion, prevent the use of BWCs while performing their duties. Employees issued a BWC system, and who are assigned to specialized units (non-uniformed positions), should have their BWC available to be used if needed. Such non-uniformed employees are responsible for ensuring the recording devices are in good working order prior to going on duty and shall use the device in accordance with this policy whenever they are involved in pre-planned events or pre-planned enforcement as outlined in section 303.5 (ACTIVATION/DEACTIVATION OF THE BWC) of this policy. These exceptions are:

- (a) Uniformed personnel attending a formal event, funeral or specified training assignment.
- (b) Personnel working in an undercover capacity or while conducting plain clothes surveillance where the intent is not to be identified as a police officer and no enforcement action is planned.
- (c) Personnel with written authorization by the Chief of Police or designee to maintain the BWC in the "off" position for a limited purpose or specific period of time.

303.4.1 OFFICER RESPONSIBILITIES

While on duty and/or working secondary employment in the capacity of a Daly City Police Officer or whenever in uniform executing a legal or contractual obligation on behalf of the city, personnel assigned a BWC are responsible for ensuring that they are equipped with a Department-issued BWC and the camera is fully charged and in good working order at the beginning of their shift.

Daly City Police Department

Daly City PD Policy Manual

Body-Worn Cameras

If a device is in need of repair, employees will notify their supervisor and turn the BWC into the BWC Administrator for repair or replacement.

On-duty uniformed personnel issued a BWC shall affix their issued BWC to their uniform (or outermost garment covering the uniform shirt) above the belt line in a conspicuous manner at a location that will facilitate an optimum recording field of view.

No employee shall remove, dismantle, or tamper with any hardware and/or the evidence management software component of the BWC.

All sworn personnel are responsible for ensuring their assigned BWC is docked and their videos tagged by the end of their shift.

303.4.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall ensure personnel utilize the BWC according to this policy. Supervisors should take custody of the BWC, or ensure the recording is uploaded and saved, as soon as practicable when the device may have captured an Officer-Involved Critical Incident as defined within the San Mateo County OICI Team investigative protocol.

Supervisors may have the ability to immediately resolve citizen complaints by viewing video captured by the officer's BWC prior to contacting the citizen. At no time, except at the direction of the Chief of Police or designee, shall the supervisor allow the citizen to view the file footage.

303.4.3 WATCH COMMANDER RESPONSIBILITIES

Minor policy violations (not criminal in nature) discovered during any review, absent a citizen or administrative complaint, of recorded materials in accordance with departmental policy, should be viewed as training opportunities and not as routine disciplinary actions. Watch Commanders will continue to have discretion to resolve the minor violation with training or informal counseling. Should the behavior or action occur after it was informally addressed, the appropriate disciplinary or corrective action should be taken.

303.5 ACTIVATION/DEACTIVATION OF THE BWC

There are many situations when to activate the BWC; however, this policy is not intended to describe every possible circumstance. The safety of officers and members of the public is the highest priority, and the Department acknowledges there may be situations in which operation of the device is impractical or may be an impediment to public and officer safety. Additionally, the Department recognizes human performance limitations during particularly stressful, critical situations. Users shall activate the camera when safe to do so.

While on duty, officers will keep their BWCs in the "on" position and buffering mode. Under the following circumstances they can place the camera in Sleep Mode:

- When inside the Police Department
- When using a washroom

Daly City Police Department

Daly City PD Policy Manual

Body-Worn Cameras

In addition, the officer may keep the BWC in the "off" position while the camera is permitted off, per the Exceptions in Section 303.4.

303.5.1 WHEN TO ACTIVATE

While on duty and/or working secondary employment in the capacity of a Daly City police officer, officers shall activate the BWC prior to initiating investigations and enforcement activity, whether self-initiated or in response to a dispatched call. Personnel are not required to activate the BWC during routine, or incidental contact with a citizen, (i.e., giving directions or lunch breaks).

Personnel shall record non-enforcement contacts should they become confrontational, assaultive, or enforcement-oriented. In addition to the required conditions, personnel shall activate the system any time its use would be appropriate and/or valuable to document an incident.

Also, officers shall not be required to activate or deactivate their BWC based solely on the request, or demands of a citizen, but rather rely on their training and this policy to direct their use of the BWC.

While there may be circumstances in which the BWC cannot be activated immediately, the goal is to capture interactions with the public while providing police services. In the event, an officer decides not to turn on their BWC based on the belief that their safety or the safety of the public is in jeopardy, the onus of providing evidence of such fact is the employee's responsibility. Any failure to activate the BWC in a circumstance in which the objective facts dictate otherwise shall be cause for discipline.

303.5.2 AUTOMATIC ACTIVATION

The AXON BWC system has several methods of automatic activation external to the device itself. These methods of activation are as follows:

- Activation of the AXON TASER 7 Conducted Electrical Weapon (CEW)
- Removing a firearm from holster (for officers with a signal sidearm detection device)

No employee of this department shall intentionally disable any of the automatic activation features of this BWC system.

303.5.3 WHEN TO DEACTIVATE

BWC recordings shall not be intentionally deactivated until the conclusion of the encounter.

303.5.4 WHEN TO USE MUTE MODE

Personnel are authorized to utilize the mute function to discuss tactics, have administrative or investigative discussions with other personnel or when directed by a supervisor. When practicable and without compromising officer safety officers should remove themselves from the immediate area of suspects, witnesses, etc when in mute mode.

303.5.5 RECORDING STATEMENTS OF VICTIMS, WITNESSES, AND SUSPECTS

When conducting a field investigation, the officer shall attempt to record all statements with the BWC. The recording may be valuable evidence that contributes to or compliments an investigation.

Daly City Police Department

Daly City PD Policy Manual

Body-Worn Cameras

While evidence collection is important, the Department also recognizes it is important for officers to maintain credibility with people wanting to share information with law enforcement.

On occasion, an officer may encounter a reluctant crime victim or witness who does not wish to make a statement on camera. In these situations, the officer should continue to develop rapport with the individual while balancing the need for evidence collection with the individual's request for privacy. Officers should use their best discretion and consider not recording or turning their camera away so it is not facing the person in the following situations:

- (a) Obtaining victim and witness statements in Sexual Assault or Child Abuse cases.
- (b) In a facility whose primary purpose is to provide psychiatric or medical services, unless responding to a call involving a suspect, taking a suspect statement, or addressing an issue which requires police action.
- (c) In order to gain the cooperation of citizens who are reluctant to provide a statement while being recorded.
- (d) Conversations with agency personnel or personnel from another agency involving tactics and strategy.
- (e) When gathering sensitive intelligence or meetings with informants

303.5.6 EXPLOSIVE DEVICES

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 when detailed to a bomb call, suspicious package call, a call where an explosive device may be present, or a call where an officer reasonably believes an explosive device may be present.

303.6 STORAGE AND RETENTION OF RECORDINGS

All BWC recordings will be stored in a cloud storage system (currently Evidence.com). The cloud storage service shall comply with Criminal Justice Information Systems (CJIS) requirements for law enforcement digital evidence storage. The period for retention of BWC recordings will vary based upon the nature of the police interaction or investigative proceedings (criminal or administrative). Retention periods for BWC recordings are as follows (Penal Code § 832.18):

- Non-enforcement and non-adversarial contacts: 9 Weeks
- Accidental or mistaken recordings: 9 Weeks
- BWC data captured during training: 9 Weeks
- Traffic enforcement stops: 2 years
- Other enforcement or adversarial contacts: 2 years
- Traffic collision reports (CHP-555) 3 years
- IA investigative evidence: 5 years (Penal Code § 832.5)
- Criminal Evidence: Held until the criminal matter is resolved and/or in accordance with other criminal evidentiary retention schedules, but no less than 2 years.

Daly City Police Department

Daly City PD Policy Manual

Body-Worn Cameras

- Use of Force: Held until the criminal or civil action is resolved and/or in accordance with other criminal/civil litigation retention schedules, but no less than 2 years if no criminal or civil action is forthcoming.
- Officer-involved shooting: 10 years and held until the criminal or civil action is resolved and/or in accordance with other criminal/civil litigation retention schedules.

All BWC recordings related to any criminal proceeding, civil claim, pending litigation, or personnel complaint, shall be preserved until that matter is resolved in accordance with individual retention requirements of the evidence.

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

303.6.1 UNAUTHORIZED ACCESS AND USE

All BWC recordings shall remain the property of the Department and constitute official records of investigation of the Department. Unauthorized access to, use, duplication, and/or distribution of BWC files is prohibited. Personnel shall not make copies of any BWC file for their personal use and are prohibited from using a recording device such as a phone camera or secondary video camera to record BWC files.

Personally owned BWCs shall not be used while on duty. This does not preclude personnel from using a secondary or “back-up” device should their BWC become disabled or is unavailable for any reason. Secondary devices include department-issued cell phones, digital recording devices, or device capable of capturing audio and video. Any such recording captured using a secondary device, will be considered the property of the Department and constitute official records of investigation of the Department.

303.7 RELEASE OF RECORDINGS

The Daly City Police Department's goal is to release BWC recordings of critical incidents to the greatest extent possible unless disclosure would:

- (a) Endanger the safety of a witness or another person involved in the investigation,
- (b) Jeopardize the successful completion of an investigation, or
- (c) Violate local, state and/or federal laws, including but not limited to, the right to privacy.

In the event the Police Department or City intends to release or publish, for any purpose, video recordings where officers are captured on video or the video depicts actions taken by them in the course of the performance of their official duties, those officers shall be given written notice of the intention to release or publish said video with as much advance notice possible.

The Department may, without prior notice to involved officers, share video footage of specific incidents with other law enforcement agencies outside of Daly City, when there is reasonable suspicion that criminal activity has occurred or is about to occur.

Non-Departmental Requests:

Body-Worn Cameras

- (a) The Department shall accept and process PRA requests in accordance with the provisions of federal, state and local statutes and Department policy.
- (b) Members shall provide discovery requests related to the rebooking process or other court proceedings by transferring the BWC recording to the requesting agency via evidence.com.
- (c) City Attorney or City Manager requests.
- (d) Other requests shall be reviewed on a case-by-case basis with access being granted as permitted by the Chief of Police or the authorized designee.

303.8 REVIEW OF RECORDINGS

All file viewing is for law enforcement use only and subject to a right to know and need to know basis. Department personnel may review BWC files relating to courtroom testimony, report preparation, training, and administrative interviews except as otherwise stated in this policy. Department supervisors may access BWC footage for the purposes consistent with the policy. Supervisors may review an officer's BWC footage to search for violations of Department policy with reasonable cause.

No employee shall modify, alter, reuse, erase, or tamper with video or audio recorded by the BWC except as authorized by the Chief of Police or designee.

303.8.1 TRAINING WITH BWC FILES

A BWC file may be utilized as a training tool for individuals, specific units, and the department as a whole. A person recommending utilization of a BWC file for training purposes shall submit the recommendation through the chain of command to the Chief of Police or designee. If an involved officer or employee objects to the showing of a recording, his/her objection will be submitted to staff to determine if the employee's objections outweigh the training value. The Chief of Police or designee shall review the recommendation and determine how best to utilize the BWC file considering: (a) The identity of the person(s) involved; (b) The sensitivity of the incident and; (c) The benefit of utilizing the file versus other means (e.g., General Order, Training Bulletin, Officer Safety Bulletin, briefing or other training).

Exception: Field Training Officers may use BWC files to provide immediate training to recruits and to assist with the completion of Daily Observation Reports.

303.8.2 OFFICER INVOLVED CRITICAL INCIDENTS

Members involved in critical incidents defined within the San Mateo County OICI Team investigative protocol shall not review any BWC video or audio in conjunction with the OICI Team investigation prior to providing a preliminary statement to the OICI investigators assigned to the incident. Accordingly, OICI investigators shall read the following statement to any member interviewed prior to beginning the preliminary statement:

In this case, there is audio and video evidence that has been captured by a body worn camera. Video and audio evidence has limitations and may depict the events differently than you recall and may not depict all of the events as seen or heard by you. Video has

Body-Worn Cameras

a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance, or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident. The field-based video systems are configured with high-quality audio and have the capability to capture a significant amount of video and audio when in operation, HOWEVER, THE SYSTEMS ARE LIMITED IN THE SCOPE OF THEIR AUDIO AND VISUAL CAPABILITIES. An individual officer's experience may not include everything captured by the system. SIMILARLY, THE FIELD-BASED VIDEO SYSTEMS MAY NOT CAPTURE EVERYTHING EXPERIENCED BY THE OFFICER.

Once an involved officer has provided an initial statement, they will have an opportunity to review any available recordings with their representative and/or legal counsel. The officer shall then be afforded an opportunity to provide a follow-up statement after having reviewed the recording(s).

303.9 USER TRAINING

All members who are authorized to use the BWC system must successfully complete an approved course of instruction prior to its use.

After completing the Department BWC training and being issued a BWC, officers will be afforded a three-month training period to adapt to the new equipment. After the training period, officers shall be in full compliance with this policy.