

## Body Worn Cameras

### 424.1 PURPOSE AND SCOPE

In-car (Mobile Audio Video) cameras, body-worn cameras (BWC), and other digital recording devices provide additional documentation of police/public encounters. They may be an important tool for collecting evidence and maintaining public trust. Persons reviewing recordings must be cautious before conclusions are reached about what the video shows. It is the policy of the Allan Hancock College Police Department to equip select sworn/non-sworn employees with BWCs. The cameras are intended to:

- Capture crimes in progress, whether perpetrated against department employees or members of the community and maintain this evidence for presentation in court.
- Document the initial police response, the discovery of evidentiary items, and the actions of the police pursuant to an investigation, including calls for service or self-initiated police contacts.
- Mitigate potentially confrontational interactions with members of the public through the presence of the BWC.
- Prevent and investigate complaints made against Department employees during the course of their police duties.
- Serve in training and performance feedback - ensuring the professionalism, accountability, and transparency of employees of the Allan Hancock College Police Department.

Department employees shall utilize BWCs following the provisions of this policy and state and federal law to complement the performance of patrol personnel, investigators, and other employees of the department deployed to the field to provide police services.

While recordings obtained from BWCs provide an objective record of events, it is understood that video recordings do not necessarily reflect the experience or state of mind of the individual employee(s) in each incident. Moreover, recordings, especially videos, have limitations and may depict events differently than those recalled by the involved employee. Video captures 2-dimensional images, which may differ from an employee's 3-dimensional observations. Lighting and angles may also contribute to different perceptions. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved employee and that the involved employee may see and hear information that may not be captured on video.

The BWC system is constantly recording video, without audio, in the background. This background loop can be accessed if significant events were not captured through manual or automated activation.

The BWC can be activated by the employee pushing a button, or automatically by a triggering event, for example, activating overhead

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emergency lights on a patrol vehicle, driving at a high rate of speed, or being in proximity of another BWC when a triggering event occurs. Once activated by the employee, or a triggering event, the video will have a 30-second buffer as a default. This will add 30-seconds of footage prior to the activation, however, there will be no audio during that portion of the video.

### **424.2 POLICY**

This policy provides guidelines for using BWCs by this Department's employees while performing their duties, including all recording systems, whether body-worn, hand-held, or integrated into portable equipment. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between employees of the Department and the public. This policy does not apply to lawful surreptitious audio-video recording, interception of communications for authorized investigative purposes or to mobile audio/video recordings.

### **424.3 COORDINATOR**

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

- (a) Establishing a system for downloading, storing and 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.
- (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.

### **424.4 EMPLOYEE PRIVACY EXPECTATION**

All recordings made by employees acting in their official capacity shall remain the property of the College District, regardless of whether those recordings were made with department-issued or personally owned recorders. Employees shall have no expectation of privacy or ownership interest in the content of these recordings. Employees shall maintain full privacy and ownership interest in the unrelated content stored on personally owned recorders, including cellular telephones.

### **424.5 EMPLOYEE RESPONSIBILITIES**

All sworn and non-sworn uniformed personnel who work in a field capacity subject to calls for service, or that have enforcement duties, or supervising those activities, shall be responsible for ensuring that he/she is equipped with a BWC issued by the Department and that the recorder is in

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good working order before each shift. If the recorder is not in working order or malfunctions at any time, the employee shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practical. The employees shall wear the BWC in a conspicuous manner, and the cameras shall be forward facing on the uniform to provide an optimal recording field of view.

The supply of fully functional BWCs and staffing levels can fluctuate. If there are not sufficient BWCs to assign to all employees, a system of pooling cameras should be developed. If a department employee is assigned to activities that would require the employee to wear a BWC, but there is not one available, the employee shall notify their supervisor prior to engaging in the activity.

Any employee, while assigned to a non-uniformed position or assignment (Detectives and Special Investigative Units), may carry an approved BWC whenever the employee believes such a device would be useful or when directed by a supervisor. Non-uniformed employees wearing a BW shall wear the device in a conspicuous manner and forward-facing to facilitate optimal recording field of view.

Employees directly involved in pre-planned warrant services or enforcement activities should wear a BWC during the activity. If there are not sufficient BWCs for each employee, the supervisor responsible for the planning should allocate the available BWCs to ensure the event is appropriately documented based on the resources available.

When using a BWC, the assigned employee should record his/her name, AHCPD identification number, and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software capture the user's unique identification and the date and time of each recording.

Employees shall document the use of a BWC and the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the employee deactivated the recording before the conclusion of the investigation. Employees shall include the reason for deactivation.

When an employee reasonably believes a recorded contact warrants a review by a supervisor, for example, when an employee believes a confrontational contact is likely to result in a citizen complaint, the employee should promptly notify their supervisor of the existence of the recording.

Employees shall not tamper with or dismantle any hardware or software component of the body-worn camera.

All Department employees using BWCs shall be trained and provided a copy of the policy before the use of equipment. The training and course outline shall be documented in the Department's training records.

#### 424.5.1 SUPERVISOR RESPONSIBILITIES

Supervisors shall only use BWCs or online storage systems once they have successfully completed the required training.

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Supervisors shall ensure employees assigned a BWC use the equipment according to policy guidelines. Supervisors may also conduct random or directed reviews of recordings consistent with Section 424.12 (Auditing), to assess performance related to their use and note videos that may be appropriate for training and/or administrative review.

When an incident arises that requires the immediate retrieval of BWC media for chain of custody purposes (including, but not limited to, officer-involved shootings, in-custody deaths, critical incidents involving great bodily injury, or other incidents as determined by policy/supervision), a supervisor will respond to the scene, ensure the position/location of the BWC is documented and photographed, retrieve and take custody of the BWC, and ensure the data is uploaded and access is restricted (Penal Code § 832.13). Supervisors shall review relevant video recordings before submitting or forwarding any Blue Team entries.

### **424.6 ACTIVATION OF THE BODY-WORN CAMERA**

This policy is not intended to describe every circumstance where the activation of the BWC is appropriate and/or required. Not all situations will clearly start out necessitating documentation by the BWC, nor will all recorded events have a clear ending for when the BWC is no longer required.

The BWC shall, absent reasonably unforeseen or exigent circumstances, be activated for:

A. All enforcement and investigative contacts, including but not limited to:

- Calls for service (excluding calls handled over the phone);
- Traffic stops;
- Pedestrian stops (including employee-initiated consensual encounters);
- Field interviews;
- Witness and victim interviews (except as noted below in Section 424.10);
- Detentions;
- Arrests (including Miranda Advisement);
- Searches (service of warrants, warrantless or consensual searches);
- Crowd management and control;
- Canine deployments;
- Use of force investigations when interviewing members of the public;
- Suspicion of crime occurring (narcotic investigations, problem locations, etc.)
- Any activity the employee believes may be criminal in nature;
- DUI investigations, including field sobriety tests.

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

At no time is an employee expected to jeopardize their safety to activate a BWC or other recording medium. If the immediate activation of the BWC is not feasible due to an imminent risk to the safety

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of the employee or others, the employee will activate the BWC at the first available opportunity after the immediate threat has been addressed. Employees assigned a BWC should consider initiating 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 occur until the incident or contact is completed.

Employees should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by stopping video recording whenever it reasonably appears to the employee that such privacy concerns may outweigh any legitimate law enforcement interest in video recording. Employees should consider utilizing other means of capturing the audio when video recording is discontinued, if appropriate. Video recording should resume when privacy is no longer an issue unless the circumstances no longer fit the criteria for recording.

Employees shall not use BWC devices to record communications or discussions with co-workers or supervisors, non-work-related activities, or non-law enforcement contacts. Employees shall not use BWC devices to record pre-incident planning discussions about tactics, techniques, and procedures or post-incident debriefs.

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify dispatch
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

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 same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

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

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### 424.6.1 CESSATION OF RECORDING

Once activated, the portable recorder should 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 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).

Circumstances when an employee **is not required** to activate the BWC or may cease recording include, but are not limited to:

- A. Department employees and public safety would be compromised (e.g., to protect the identify of a confidential informant, public informant, or undercover employee);
- B. A healthcare provider is discussing medical issues with a patient;
- C. While in a hospital with a suspect or an arrestee. However, the BWC should be turned on in the hospital if a situation arises which requires police action or to garner investigative statements;
- D. On a school campus, unless responding to an imminent threat to public safety, such as an assault in progress or effecting an arrest, or during investigations of criminal activity;
- E. Non-enforcement contacts, especially in restrooms, dressing rooms, and locker rooms;
- F. A witness or victim refuses to provide a statement if recorded, and the encounter is non-confrontational;
- G. In the employees' judgment, a recording would interfere with their ability to conduct an investigation or may be inappropriate because of the victim or witness's physical condition, emotional state, age, or other sensitive circumstance (e.g., sexual assault victim);
- H. If an employee is on a perimeter post or assigned to a static position where they are not expected to have enforcement-related contact with citizens, involved in an enforcement action, or actively part of the investigation;
- I. Other examples as covered in instructional or briefing training sessions.

### 424.6.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the department 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 department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

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### 424.6.3 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.

### **424.7 PROHIBITED USE OF PORTABLE RECORDERS**

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

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the supervisor. Any member who uses a personally owned recorder for department-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.

### **424.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

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.

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### **424.9 RETENTION OF RECORDINGS**

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incidents involving use of force by an officer
- (b) Officer-involved shootings
- (c) Incidents that lead to the detention or arrest of an individual
- (d) Recordings relevant to a formal or informal complaint against an officer or the Allan Hancock College Police Department

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).

All other recordings should be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 60 days.

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

#### **424.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

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

### **424.10 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's

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privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

#### **424.11 PROHIBITION AGAINST MODIFICATION OF RECORDINGS**

Employees shall not copy, edit, alter, erase, or otherwise modify in any manner audio/video recordings except as authorized by law or Department policy. Audio/video recordings shall not be disseminated via electronic mail.

#### **424.12 AUDITING**

To ensure incidents are being recorded per Department Policy, a supervisor may also conduct random audits of the system to evaluate policy compliance and performance.

Generally, minor infractions regarding using the BWC and related equipment may be viewed as training opportunities and documented rather than means to take disciplinary action, especially in the project's implementation stage.

Supervisors shall have a legitimate business purpose for viewing videos, and at no time shall it be done for the purpose of harassment of an employee

#### **424.13 BWC RECORDING REQUESTS THROUGH CALIFORNIA PUBLIC RECORDS ACT AND THROUGH DISCOVERY IN CRIMINAL PROCEEDINGS**

If the Allan Hancock College Police Department receives a public request for BWC recordings, refer to policy for Records Maintenance and Release.

Although the data contained within audio/video systems are not considered Criminal Offender Record Information (CORI), it shall be treated like CORI data. All system access is logged and subject to audit at any time. Access to the data from the systems is allowed on a right-to-know, need-to-know.

Pursuant to discovery requests in preparation for criminal trials, the Property-Evidence Clerk can make a copy of a BWC recording for release to the District Attorney's Office, City Attorney's Office, and/or another Judicial Department. The release shall be documented in compliance with current Department practice. If the Allan Hancock College Police Department receives a public request for BWC recordings, refer to policy for Records Maintenance and Release.

Although the data contained within audio/video systems are not considered Criminal Offender Record Information (CORI), it shall be treated like CORI data. All system access is logged and subject to audit at any time. Access to the data from the systems is allowed on a right-to-know, need-to-know.

Pursuant to discovery requests in preparation for criminal trials, the Property-Evidence Clerk can make a copy of a BWC recording for release to the District Attorney's Office and/or another Judicial Department. The release shall be documented in compliance with current Department practice.

Before the public release of a recording containing the image of a readily identifiable department employee, that employee shall be notified of the pending release as soon as practicable

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