

## **Body Worn Cameras**

### **10.11.01 PURPOSE**

The purpose of this General Order is to establish the policies and procedures governing the San Francisco Police Department's ("Department's") Body Worn Camera ("BWC") program. BWC is an effective tool the Department uses to demonstrate its commitment to transparency, to ensure the accountability of its members, increase the public's trust in officers, and fairly and objectively adjudicate complaints of misconduct. The Department is also committed to using BWC because the footage is important in investigations, litigation, and for training purposes.

While recordings obtained from a BWC provide an objective record of the recorded events, it is understood that video recordings captured by a BWC (or any other recording device) provide a limited perspective and do not necessarily reflect the experience or state of mind of the individual member wearing the BWC in a given incident.

### **10.11.02 DEFINITIONS**

- A. Buffering Mode** – When in the On Position, but not activated. In Buffering Mode, the BWC captures video but not audio. The video is not stored in permanent memory until BWC activation.
- B. Off Position** – When the on/off button of the camera has been pressed to stop Buffering Mode. When off, the BWC cannot record audio or video.
- C. Activate** – Triggering the BWC by touch or any other method, which initiates the audio and video recording functions.
- D. Deactivate** – Discontinuing audio and video recording and returning the camera to buffering mode.
- E. Incident** – Any activity that is in furtherance of a law enforcement goal or investigation. These include, but are not limited to, traffic stops, pedestrian stops, calls for service, follow-up investigations, interviews, searches, crowd control incidents, protests, and arrests.
- F. Member** – A sworn employee of the San Francisco Police Department.

### **10.11.03 POLICY**

Department members assigned a body worn camera (BWC) are required to wear and utilize the BWC consistent with this policy. Members will, prior to the assignment of and deployment with

a BWC, be trained on the use of the BWC equipment and this policy.

#### **10.11.04 MEMBER RESPONSIBILITIES**

- A.** All members shall be issued a BWC. All members are required to wear and use their BWCs while in uniform, except as described below in section E.2.
- B.** Members shall ensure their assigned BWC properly functions at the beginning of each shift.
- C.** The BWC shall be secured to the member's uniform, above the beltline, on the front of the member's chest, and to the outermost garment (such as an external jacket, an external vest carrier, or exterior armor) to promote the camera's ability to clearly record video and audio.
  - 1. The BWC may be temporarily moved from the mounted position to facilitate recording in furtherance of a police objective.
  - 2. Exemptions to the positioning of the BWC may only be authorized by a Commander or above.
- D.** Members assigned to "front desk", or station keeper duties are required to wear a BWC and are required to activate in accordance with section 10.11.05(B).
- E.** Members are responsible for the reasonable care and maintenance of the BWC they are issued.
  - 1. When a member discovers their BWC is broken, damaged, lost, or otherwise unavailable for use, the member shall notify their supervisor.
    - a. As soon as practical, the supervisor shall issue a replacement BWC, which are available at each station.
    - b. The member shall submit a memorandum documenting the need for a replacement.
  - 2. Exceptions to wearing a BWC:
    - a. When in Class "A" or "AA" uniform attending a formal event unless a supervisor otherwise directs
    - b. When engaged in Explosive Ordnance Disposal (EOD) duties
    - c. When engaged in training conducted within the Training Division
    - d. When assigned to units whose primary duties are administrative and where they are required to wear a uniform, unless outside in public
  - 3. Non-Uniformed officers' use of BWC shall be governed by Department General Order 5.08 *Non-Uniformed Officers*.

## **10.11.05 ACTIVATION OF BODY WORN CAMERAS**

- A.** Members must ensure the BWC is in the On Position and in Buffering Mode after leaving a police, detention, or medical facility.
- B.** Except as described in subsection 10.11.05 C, all members (not just the primary unit) dispatched, present, or otherwise participating in any of the below listed incidents, when applicable, must activate their BWC. Unless exigent circumstances exist, activation must occur when the member is enroute, prior to arriving on scene or immediately before making contact on traffic/pedestrian stops or detention/arrests.
  - 1. A response to any call for service, or activity with a potential to require law enforcement action
  - 2. During any consensual encounters where the member has reason to believe that a member of the public may have knowledge of criminal activity as a suspect, witness, or victim
  - 3. Making or attempting to make a traffic or pedestrian stop
  - 4. Making or attempting to make a detention or arrest
  - 5. During 5150 Evaluations
  - 6. During all pursuits
  - 7. During all uses of force
  - 8. When operating a vehicle in a Code 3 (emergency lights and siren activated) capacity as defined in DGO 5.05 Emergency Response and Pursuit Driving
  - 9. Transportation of detainee/arrestees
  - 10. Searches of persons, structures, or vehicles, including warrant services
  - 11. At the direction of the Event Commander during a public assembly. Nothing precludes members from activating their BWC if any other incident on this list occurs during a public assembly
  - 12. Issuing on-scene traffic or parking citations when the driver is not present
  - 13. During any encounter with a member of the public that becomes hostile
  - 14. In any situation when the recording would likely be valuable for evidentiary purposes
  - 15. Issuing commands and briefings while on scene during an active incident
- C.** There may be instances when a member is required to take immediate action in response to an event which may not allow time to activate their BWC. In those instances, it may be impractical or unreasonable for a member to activate their BWC before taking police action. It is expected that once the immediacy of the situation is over, members will activate their BWC system to record the remainder of the incident. Members shall articulate the reasoning for the delayed activation of their BWC in a report, statement, or other form of Department approved documentation.
- D.** Members do not need consent from members of the public prior to recording when the member is lawfully in the area where the recording takes place nor are they required to activate or deactivate a BWC upon the request of a member of the public. Members shall not

play back BWC recordings for members of the public.

E. If the BWC is accidentally activated or inadvertently captures an unintended recording, a member may submit a memorandum through the chain of command with the date, time, and summary of the accidental/unintended recording. The memorandum will be forwarded to the Commanding Officer of the Risk Management Office (RMO) for evaluation and appropriate action.

## **10.11.06 DEACTIVATION AND EXCEPTIONS**

A. The BWC may be deactivated in the following circumstances:

1. Upon the member's completion of an incident
2. When on a perimeter post or static post where they are not in contact with members of the public, involved in the initial incident, or actively part of the investigation. The BWC will be reactivated if a mandated recording circumstance occurs
3. While the member is on break or is otherwise not actively performing law enforcement functions (e.g., while eating meals, restroom breaks, when in service, but not on a call, etc.)
4. Routine contact with a member of the public (e.g., a person asking for directions)
5. Members on a guard assignment at a police, medical, psychiatric, jail or detention facility unless a mandatory recording circumstance occurs
6. When respect for an individual's privacy or dignity outweighs the need to record an incident. Such circumstances may include natural death scenes, child, or sexual assault victim interviews, and when the use of BWC would impede or limit the cooperation of a victim or witness
7. Under the direction of the highest ranking on-scene member of the Tactical Company, or the highest-ranking member on scene, or the Event Commander during certain Major or Critical Incidents, when discussing sensitive tactical information away from members of the public. The applicable Major and Critical incidents are limited to: a riot, insurrection, or potentially violent demonstration, an explosion of a destructive device or found suspicious item requiring an EOD response to the scene, an active attacker incident, hostage/barricaded suspect, sniper, officer-involved shooting, officer shot or critically injured while on duty, or verified child abduction. The member ordering deactivation shall record resulting orders on BWC
8. When expressly directed by authorized personnel from the United States Secret Service or any other entity with a valid legal basis for recording prohibitions, such as matters of national security, or Dignitary protection

B. The BWC shall not be activated, unless a mandatory event spontaneously occurs:

1. During department briefings, meetings, roll calls, command briefings
2. During compelled statements such as public safety statements, and administrative interviews (e.g. Internal Affairs (IA) or Department of Police Accountability (DPA)-related interviews)

3. While in any magistrate's or judge's office, any courtroom, or correctional facility
4. When directed by a supervisor, members shall document the supervisor's order and reason in an incident report and/or CAD update
5. During strip searches
6. In private areas of police facilities (e.g. locker rooms) and areas of police facilities that would compromise security and confidentiality
  - a. Holding cells/Booking areas are not considered "private areas" for purposes of this policy.
7. While in a medical facility, during medical or psychological evaluations or treatment by a clinician or similar professional, unless a mandatory recording circumstance occurs, or the safety of the patient is deemed to be at risk
8. While asking screening questions of drivers at a sobriety checkpoint. However, if the screening questions result in further investigation, the member shall activate their BWC

#### **10.11.07 USE OF BODY WORN CAMERA TO COMPLY WITH RECORDKEEPING & REPORTING REQUIREMENTS**

San Francisco Administrative Code section 96I.2 states: "Officers shall be authorized to comply with recordkeeping and reporting requirements through the use of technologies such as body-worn cameras." Instances where members may use body-worn cameras as an alternative to written documentation will be identified in applicable Departmental policies.

#### **10.11.08 UPLOADING AND DOCUMENTATION**

- A.** Members shall begin downloading all media prior to the end of their shift unless a supervisor approves an alternative schedule or extension of time to download.
  1. Members on an outside assignment (e.g., 10B, squad deployment) are permitted to download all recorded evidence no later than during their next regularly assigned on-duty shift unless involved in a use of force, an arrest, or directed by a supervisor.
- B.** Members shall ensure the data is categorized and titled with the following information:
  1. The title of the video shall contain either the incident report number, CAD number, or citation number in addition to a brief description for the incident.
  2. The category of the video shall indicate the type of incident.
- C.** Entering the information specified above in 10.11.08(B) shall be completed daily. Should conditions exist that prohibit completion during the member's shift, it shall be completed by the end of the member's next regularly scheduled shift.

During incidents that require a large-scale activation of the Department's members (such as large protests, natural disasters, mutual aide, etc.), the incident commander may approve delayed information entry. Such approval shall be documented in the Incident Commander's After-Action Report.

- D.** Members authoring incident reports or statements shall document their use of the BWC or ensure that it is documented by another member. Members who are aware that there is no recording or a delay in recording are required to explain the reason for the delay or non-activation in their report or statement.
- E.** If during an investigative detention, the member is aware that there is no recording, a delay in recording, or deactivates the recording in accordance with Deactivation and Exceptions, the member shall document the reason(s) for delay in activation, non-activation or deactivation in the incident report, statement, memorandum, or CAD.
- F.** For incidents that do not result in incident reports, members will document the reasons for the delay or non-activation in a memorandum or in CAD.
- G.** Members not assigned to a call for service or incident but who capture video of the incident will attach themselves to the call and note that the incident was recorded in a CAD update.

## **10.11.09 REVIEW OF BODY WORN CAMERA RECORDINGS**

- A.** Members are authorized to review BWC recordings for legitimate investigatory or administrative purposes, such as preparing an incident report, conducting follow-up investigations, testifying in court or other proceeding, or for any other official law enforcement use, or as directed by the Chief of Police, except for Covered Incident investigations as described below.
- B. Covered Incident Investigations** – Certain incidents, including any (1) officer-involved shooting; (2) in-custody death; or (3) serious bodily injury use of force investigation (“Covered Incident Investigation”), are criminally investigated by outside agencies, such as the San Francisco District Attorney’s Office or the California Department of Justice. Special restrictions regarding viewing BWC recordings following a Covered Incident apply as described below.
  - 1. Criminal Investigations** – Members involved in or witness to a Covered Incident may not view any BWC recording unless first authorized by the assigned criminal investigator. This restriction does not apply to recordings that have been publicly released.
  - 2. Administrative Investigations** – Administrative investigators shall not show BWC recordings to involved or witness members unless (1) the criminal investigation has concluded; or (2) the criminal investigator has consented to sharing the footage.

Involved members who have not already seen their BWC recording during the criminal investigation shall be required to give an initial interview prior to viewing their recording in the administrative investigation.

- a. **Initial Interview.** The initial interview by the involved member shall describe the actions that the member was engaged in, the actions that required the use of force if the member used force, and the member's response. The member shall also describe their perceptions, including what they saw, heard, felt, believed, and experienced before, during, and after the incident.
- b. **Viewing the BWC after the initial interview.** After providing an initial interview to the satisfaction of the assigned administrative investigator, the member shall have an opportunity to view their own BWC recording(s) depicting the incident (with their representative or attorney) prior to subsequent interviews.

#### **10.11.10 OWNERSHIP AND DISTRIBUTION**

**A.** All recordings made using BWCs are the property of SFPD and are subject to Departmental policies and applicable laws regarding viewing, release, retention, and destruction. Recordings will not be released or disseminated to the public without the express written consent of the Chief of Police or their authorized designee or unless otherwise expressly required by federal, state, or local law. Members shall not:

1. Edit, alter, erase, duplicate, copy, record on a device such as a cell phone camera or secondary video camera
2. Distribute in any manner body worn camera recordings without proper authorization, including posting recordings on social media for personal use
3. Access, copy, release, or share BWC data on any computer or device not controlled or provided by the SFPD
4. Convert for their personal use or for the unauthorized use of another person, any information from Department video files or the confidential files of any other agency

**B.** Nothing herein is intended to limit the DPA's role in critical incident investigations.

**C.** This section does not apply to sharing BWC footage for law enforcement purposes.

#### **10.11.11 SUPERVISOR RESPONSIBILITIES**

**A.** Supervisors will ensure that members assigned a BWC utilize them in accordance with policy and procedure. When a supervisor recognizes that a member is utilizing a BWC outside of policy, the supervisor shall take corrective action.

**B.** Supervisors will ensure that member videos related to critical incidents are uploaded and tagged for retention as soon as practical.

- C.** A supervisor at a critical incident shall take possession of a member's BWC under the following circumstances:
  - 1. The member is the subject or witness to a Covered Incident.
  - 2. The member is the subject of a criminal investigation.
- D.** When a supervisor seizes a member's BWC, the investigative unit assigned to the above incidents shall be responsible for uploading and titling relevant recordings on the seized BWC.
- E.** Supervisors may not review a member's BWC footage for the purpose of retaliation or unfair targeting.
- F.** Supervisors may review a member's BWC recordings under the following circumstances:
  - 1. When conducting an administrative or criminal investigation or performing supervisory duties
  - 2. To ensure that a member's BWC functions properly
  - 3. Training (e.g., FTO, Return to Duty) Supervisors may select portions of relevant BWC recordings to train members in safety, de-escalation, empathy, proper police procedures, and legal doctrines
  - 4. To evaluate professional conduct or performance

## **10.11.12 ADMINISTRATIVE INFORMATION**

- A.** The Department's goal is to publicly release BWC recordings to the greatest extent permitted by law unless disclosure would:
  - 1. Endanger the safety of a witness or another person involved in the investigation
  - 2. Jeopardize the successful completion of an investigation, or
  - 3. Violate local, state and/or federal laws, including but not limited to, the right of privacy.
- B.** The Risk Management Office (RMO) is the BWC program administrator. The duties of the RMO include, but are not limited to:
  - 1. Granting security access to the computer server
  - 2. Monitoring retention timeframes as required by policy and law
  - 3. Complying with Public Record Act (PRA) requests and all court record requests
  - 4. Conducting periodic and random audits of BWC equipment and the computer server
  - 5. Conducting periodic and random audits of BWC recordings for members' compliance with the policy
  - 6. Maintaining a log of access, duplication, distribution, and deletion
- C.** Tracking, maintenance, issuance, and replacement of BWC is the responsibility of the Technology Division.

- D.** When requested by the DPA, members of the Legal Division shall provide the BWC recordings consistent with applicable laws, Department policies, and MOUs.
- E.** Consistent with state law, the Department shall retain all BWC recordings for a minimum of sixty (60) days, after which recordings may be erased, destroyed, or recycled.
  - 1. The Department shall retain BWC recordings for a minimum of three (3) years if:
    - a. The recording is of an incident involving a member's use of force (including reportable and non-reportable uses of force) or officer-involved shooting; or
    - b. The recording is of an incident that leads to the detention or arrest of an individual; or
    - c. The recording is relevant to a formal or informal complaint against a member of the Department.
  - 2. A BWC recording may be saved indefinitely as part of a specific case if deemed relevant to a criminal, civil, or administrative matter.
  - 3. Members of the RMO are authorized to delete BWC recordings in accordance with the Department's established retention policies.

### References

- DGO 2.01, General Rules of Conduct, Rule 23, Department Property
- DGO 2.01, General Rules of Conduct, Rule 29, Surreptitious Recordings
- DGO 8.01, Major and Critical Incident Evaluation and Notification
- DGO 8.10, Guidelines for First Amendment Activities
- San Francisco Administrative Code 96I.2(b)