

In-Car Camera/Body-Worn Camera Video

446.1 PURPOSE AND SCOPE

The Elk Grove Police Department has provided in-car camera/body-worn camera video recording systems to provide records of events and assist officers in the performance of their duties. Elk Grove Police Department recognizes that video recording of contacts between Department personnel and the public provides an objective record from one perspective. These events and the use of a recording system complement field personnel in the performance of their duties by providing a video record of enforcement and investigative field contacts which can enhance criminal prosecutions and limit civil liability. A video recording of an event or contact also enables the delivery of timely, relevant and appropriate training to maximize safety for EGPD personnel and improve the delivery of police services to the community. While recordings obtained from video recorders 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 officer(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved officer. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved officer and that the involved officer may see and hear information that may not be captured on video. This policy provides guidance on the use of these systems.

446.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - Any process that causes the in-car camera/body-worn camera video recording systems to transmit or store video or audio data in an active mode.

In-car camera (ICC) recording systems - Refers to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at minimum, a camera, microphone, recorder and monitor.

Body-worn camera (BWC) recording systems - Refers to any system that captures audio and video signals, that is typically attached to equipment worn by officers, and that includes at minimum, a camera, microphone, and recorder.

ICC/BWC Technician(s) - Personnel certified or trained in the operational use and repair of ICC/BWCs as well as responsible for media storage related to ICC/BWC.

ICC/BWC Coordinator - Personnel certified or trained in the operational use of ICC/BWCs, duplicating methods, redaction, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures.

Record After The Fact (RATF) - Provides continuous ICC/BWC background recording and the ability to go back in time and review video from an event.

Recorded media - Audio-video signals recorded or digitally stored on a storage device or portable media.

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446.2 POLICY

It is the policy of the Elk Grove Police Department to use in-car camera/body-worn camera video recording systems technology to more effectively fulfill the department's mission and to ensure these systems are used securely and efficiently. Officers who have been issued a body worn video camera system shall wear it at all times the officer may become involved in an enforcement situation. Officers working plain clothes or special assignments shall, when it is not practical or safe to comply with mandatory wearing requirements, have the discretion to determine the proper wear and placement of the camera so as to facilitate an optimum recording field of view.

446.3 OFFICER RESPONSIBILITIES

Prior to going into service, each officer will properly equip him/herself to record audio and video in the field. At the end of the shift, each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment.

At the start of each shift, officers should test the ICC/BWC system's operation in accordance with manufacturer specifications and department operating procedures and training.

If the ICC system is malfunctioning or damaged, the officer shall notify a supervisor and take the vehicle out of service unless a supervisor requests the vehicle remain in service. If the BWC system is malfunctioning or damaged, the officer shall notify a supervisor. The supervisor should make attempts to have the unit repaired or replaced as soon as practical. A temporary replacement BWC should be provided to the officer until such repairs or replacement can be made.

446.4 ACTIVATION OF THE ICC/BWC

The ICC system is designed to activate manually or with a number of "triggers." The system remains on until it is turned off manually. The BWC system is designed to turn on manually. The BWC system remains on until it is turned off manually.

446.4.1 REQUIRED ACTIVATION OF ICC/BWC

This policy is not intended to describe every possible situation in which the ICC/BWC system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes it would be appropriate or valuable to document an incident.

Officers shall position their camera to facilitate optimum recording field of view. Officers should activate their camera system as soon as practical upon encountering the below types of events. However, at no time should an officer jeopardize his/her safety, or the safety of any other officer, to activate a recording device.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the ICC/BWC. Until technology allows for full integration, the ICC and/or BWC system should be activated in any of the following situations:

- (a) All field contacts involving actual or potential criminal conduct within video or audio range:

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1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
 2. Code-three responses
 3. Vehicle pursuits
 4. Suspicious vehicles
 5. Arrests
 6. Vehicle searches
 7. Physical or verbal confrontations or use of force
 8. Pedestrian checks
 9. DWI/DUI investigations including field sobriety tests
 10. Consensual encounters
 11. Crimes in progress
 12. Responding to an in-progress call
- (b) All self-initiated activity in which an officer would normally notify the Dispatch Center
- (c) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:
1. Domestic violence calls
 2. Disturbance of peace calls
 3. Offenses involving violence or weapons
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- (e) Any other circumstance where the officer believes that a recording of an incident would be appropriate

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.

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446.4.2 ADDITIONAL CONSIDERATIONS FOR RECORDINGS

At no time should an officer jeopardize his/her safety, or the safety of any other officer, in order to activate a recording device. Officers may use discretion when deciding whether or not to advise a citizen he or she is being recorded. Generally, officers should not cease recording solely based on the request or demand of a citizen.

- (a) **Informal Community Interactions (Public Encounters)** - Informal community interactions differ from “consensual encounters” officers may make in an effort to develop reasonable suspicion to detain or probable cause for arrest. To strengthen relationships between police and citizens, officers may use discretion regarding the recording of informal, non-enforcement related interactions with members of the community. In the event a public encounter becomes adversarial, officers should activate their recorders without compromising their safety or the safety of others.
- (b) **Private Residences (including locations and areas not accessible without a warrant or warrant exception)** - Private citizens have a reasonable expectation of privacy and guarantee against the unreasonable search and seizure of their persons, houses, papers and effects as provided in the United States and California constitutions. However, officers may record video of otherwise protected places and things during the course of their official duties when they are lawfully present in any location by consent, warrant, exigent circumstances, or other recognized warrant exception. Officers may also record anything that is within plain view of any location from which the officer is lawfully present.
- (c) **Victims and Witnesses of Crime** - Officers should generally record interviews of crime victims and witnesses. Officers have no obligation to advise a victim or witness that he or she is being recorded, but may do so at their discretion. When a victim or witness requests they not be recorded, officers may consider their request (See section 446.4.4 below for provisions of Penal Code 632). In cases where a victim or witness requests they not be recorded, and the officer agrees not to record, officers should record their request prior to turning the camera off. When an officer is already recording, he/she shall record their explanation for turning the camera off prior to doing so.
 - 1. **Witnesses** - In the event a crime witness or a member of the community wishes to report or discuss criminal activity anonymously, officers have the discretion to not record.
 - 2. **Victims** - Officers should record interviews of crime victims, unless otherwise requested by the victim. Upon request by the victim, officers have the discretion to not record the interview. Officers may offer to avert their camera to capture only audio during the interview, when doing so would facilitate obtaining the victim’s recorded statement.
 - **Domestic Violence Victims** - Officers should record interviews of domestic violence victims to facilitate future prosecution efforts and discourage later recanting of statements. Officers should also record interviews with children who witness domestic violence, when the child is willing.
 - **Child Abuse and Sexual Assault Victims** - Officers should not record interviews of victims, witnesses, or parents of child abuse or sexual assault during field investigations.

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- (d) Hospital or Medical Facilities - Officers shall be aware of patients' rights to privacy when in hospital and medical settings. Officers shall not record patients during medical or psychological evaluations by a clinician or similar medical professional, or during medical treatment, even if directed to do so by medical staff, unless the officer believes a violation of law is occurring. When recording in hospitals and other medical facilities, officers shall be careful to avoid recording persons other than the suspect.
- (e) Privileged Communications - Officers shall not record privileged communications which are protected by California Evidence Code section 900 et seq unless such privilege is explicitly waived. This includes the attorney-client, physician-patient, psychotherapist-patient, and clergy-penitent privileges.

446.4.3 CESSATION OF RECORDING

Once the ICC/BWC is activated, officers should continue recording until the incident has concluded and the officer has ended his or her contact with the subject(s) of the recording or delivered the subject(s) to a detention facility. Should an arrestee become confrontational during processing or booking, officers should reactivate their camera, if they are able to do so without compromising their safety or the safety of others. When an officer resumes recording under these circumstances, the recorder should remain on until the officer no longer has contact with the subject.

Members shall cease 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).

The intention to stop recording should be noted verbally, prior to stopping the recording. The process of stopping a recording should also be included within the written report in order to provide background for the cessation.

446.4.4 WHEN ACTIVATION IS NOT REQUIRED

Activation of the ICC/BWC system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

PC §632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential, a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded, however PC §633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation. Any sworn officer may surreptitiously record conversations during the normal course of duty for a criminal investigation in which the sworn officer reasonably believes that such a recording will be beneficial to the investigation.

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- (a) Any sworn officer contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other sworn officers conducted solely for administrative purposes.
- (b) Any individual contacted by a sworn officer wearing a conspicuously mounted recording device will be deemed to have knowledge that such a contact is being recorded.

446.4.5 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning ICC or personnel possessing non-functioning BWC systems should be placed into service. If these vehicles and/or BWC systems are placed into service, the appropriate documentation should be made.

At reasonable intervals, supervisors should validate that:

- (a) Beginning and end-of-shift recording procedures are followed.
- (b) The operation of ICC/BWC systems by new employees is assessed and reviewed no less than biweekly.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor, ICC/BWC technician or crime scene investigator properly retrieves the recorded media. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

446.5 REVIEW OF ICC/BWC RECORDINGS

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside of the agency is strictly prohibited, except to the extent permitted or required by law.

Officers have the ability to review their ICC/BWC recordings to assist with their investigation, prior to the completion of their report. Recorded statements shall be summarized and documented within the narrative of the applicable report. Only official Department devices should be used to review Body Worn Camera recordings.

Once ICC/BWC video is uploaded to the server, sworn personnel may view only their own recordings. Access to videos uploaded to the server is controlled by the system administrator. An audit trail of individuals accessing, viewing or downloading videos will be automatically generated by the system.

Recordings may be reviewed in any of the following situations:

- (a) For use when preparing reports or statements
- (b) By department supervisory and management personnel during investigations related to use of force, officer involved shootings, complaints and pursuits.

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- (c) To assess proper functioning of ICC/BWC systems
- (d) By department investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- (e) By an officer who is captured on or referenced in the video or audio data and reviews and uses such data for any purpose relating to his/her employment
- (f) By court personnel through proper process or with permission of the Chief of Police or the authorized designee
- (g) By the media through proper process or with permission of the Chief of Police or the authorized designee
- (h) To assess possible training value
 - 1. Recording may be used for training purposes. Any video used for official training purposes requires approval by the Chief or authorized designee. In no event will video recordings be used for training, or be otherwise used or shown, if it would result in ridicule or embarrassment of an officer(s), except when required as part of a formal investigation or legal proceeding. In the event that videos are intended to be used for training purposes, the involved officer(s) will first be consulted. If he/she objects to the use of the video, such objection shall be submitted to the Professional Standards Bureau - Training. The Professional Standards Bureau Commander shall weigh the value of the video for training against the officer(s) objections and basis for the objection. When the Professional Standards Bureau Commander refuses to grant the request of the involved officer(s), the matter shall be heard by the Chief of Police or designee, prior to utilizing the video.

446.6 DOCUMENTING ICC/BWC USE

If any incident is recorded with either the ICC/BWC the existence of that recording shall be documented in the officer's report. If a citation is issued, the officer shall make a notation on the back of the records copy of the citation, indicating that the incident was recorded.

446.7 RECORDING MEDIA STORAGE AND INTEGRITY

All recording media that is not booked as evidence will be retained for a minimum of one year after which time it will be erased, destroyed or recycled in accordance with the established records retention schedule (Government Code § 34090.6).

The following are specifically prohibited:

- (a) Personal copies of official recordings
- (b) Re-recording of videos with secondary personal recording devices such as a video camera, cell phone or other device to record or capture digital evidence
- (c) Posting of official video and/or audio to any non-Department sponsored social networking or other web site

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- (d) Posting of Body Worn recordings on any Department sponsored site without express permission from the Chief of Police or his designee (any video posted on a Department sponsored social media or other web site will thereafter be considered public information)

446.7.1 RECORD AFTER THE FACT (RATF) VIDEO

Upon proper request, a copy of the RATF video will be made for use as authorized in this policy.

RATF video may only be released in response to a court order or upon approval by the Chief of Police or authorized designee. In the event that an RATF video is released to a court, a copy shall be made and placed in storage until the original is returned.

446.7.2 ICC/BWC RECORDINGS AS EVIDENCE

Officers who reasonably believe that an ICC/BWC recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer or against the Elk Grove Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

446.8 SYSTEM OPERATIONAL STANDARDS

- (a) ICC/BWC system vehicle installations should be based on officer safety requirements and the vehicle and device manufacturer's recommendations.
- (b) The ICC/BWC system should be configured to minimally record for 30 seconds prior to an event.
- (c) Officers shall not erase, alter, reuse, modify or tamper with ICC/BWC recordings.
- (d) The ICC/BWC system provides continuous background recording and the ability to go back in time and capture video (not audio) from an event even when the record button wasn't pressed.

446.9 ICC/BWC TECHNICIAN RESPONSIBILITIES

The ICC/BWC technician is responsible for:

- (a) Ordering, issuing, retrieving and storing ICC and BWC hardware.
- (b) Maintaining a record of issued ICC and BWC hardware.
- (c) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.

446.10 ICC/BWC COORDINATOR RESPONSIBILITIES

The ICC/BWC Coordinator has oversight responsibilities including, but not limited to, the following:

- (a) Ensure ICC and BWC video is prepared and distributed in accordance with release procedures

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- (b) Ensure recordings of evidentiary value are secure and retained according to the Department's retention schedule
- (c) Erasing of media:
 - 1. Pursuant to a court order
 - 2. In accordance with established records retention policies, including reissuing all other media deemed to be of no evidentiary value.
 - 3. In the event of an accidental activation of the BWC where the resulting recording is of no investigative or evidentiary value, the recording employee may request that the BWC file be deleted by submitting an email request with sufficient information to locate the BWC file to the BWC Program Coordinator or their designee who shall review the file, approve or deny the request, and forward to the Evidence/Identification Technician for deletion.
- (d) Ensure all other files are maintained in accordance with the Department's retention schedule
- (e) Ongoing review of related Department policies and procedures
- (f) Assessment and recommendations for modification of policies, procedures and practices associated with video recording
- (g) Training
- (h) Coordination with IT regarding system related issues

446.11 TRAINING

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