

In-Car Camera/Body-Worn Camera Video

446.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of in-car camera systems and body-worn camera devices by employees of this department while in the performance of their duties. This includes all recording systems whether body-worn, handheld, or integrated into portable equipment.

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. This includes a manual activation by an employee or an automatic activation by Axon Signal or Watchguard.

Axon Signal - Proprietary technology allowing for the BWC to activate Event Mode recording when alerted by Axon Signal products. The physical range of Axon Signal BWC activation varies depending on the Axon Signal device model and environmental factors.

Axon Video Recall - Captures an audio-free, lower-resolution evidence when the camera is not actively recording, from a period within the last 18 hours of active camera use.

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

Buffering Mode - Records the previous 30 seconds of video (no audio) leading up to the beginning of Event Mode. Buffering Mode is automatically attached to the beginning of the Event Mode recording.

Event Mode - The mode during which the ICC/BWC is actively capturing and storing video and audio recordings.

Function Test Mode - Placing the Conducted Energy Device (CED) in Function Test Mode will log everything that occurs as a test, and the Axon Signal capability is turned off.

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.

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 a minimum, a camera, microphone, recorder, and monitor.

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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.

Sleep Mode - Sleep Mode puts the BWC in an idle state that disables recording and buffering and disables activation of the BWC by an Axon Signal device. This is an alternative to powering off the camera.

Stealth Mode - Stealth Mode turns off all indicators and notifications on the BWC, including LED lights, sounds and vibrations.

446.2 POLICY

It is the policy of the Elk Grove Police Department to use ICC/BWC video recording systems to more effectively fulfill the department's mission and to ensure these systems are used securely and efficiently. The use of the recording systems is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public. Employees who have been issued a BWC system shall wear it at all times the employee may become involved in an enforcement situation. This includes while wearing any apparel that identifies the wearer as department employees. The following are exceptions to the wearing of a BWC system:

- (a) Uniformed personnel attending a formal event or funeral.
- (b) Personnel working in an undercover capacity or while conducting plain clothes surveillance where the intent is not to be identified as a police department employee and no enforcement action is planned.
- (c) Personnel working in an administrative assignment; however, they shall always have their BWC readily available to use in accordance with this policy
- (d) Personnel with express managerial approval under special circumstances.

446.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any Department-issued device at any time, and any recording made while acting in an official capacity for this Department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy (outside of communications protected as privileged communications) or ownership interest in the content of these recordings.

446.4 MEMBER RESPONSIBILITIES

Prior to going into service, each employee will properly equip him/herself to record audio and video in the field. Each employee issued a BWC by the Department will be responsible for making sure that he/she is wearing the device, and that the device is in good working order. At the end of the shift, each employee will follow the established procedures for providing to the Department any recordings or used media and any other related equipment.

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At the start of each shift, employees should test the ICC/BWC system's operation in accordance with manufacturer specifications and department operating procedures and training. Employees shall sync their BWC with their ICC at the beginning of each shift.

If the ICC system is malfunctioning or damaged, the employee 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 employee 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 employee until such repairs or replacement can be made.

Employees shall pair their BWC with the Axon mobile application downloaded on their departmental phone. Employees shall not use their personal phones or electronic devices for pairing.

446.5 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a body-worn camera as soon as practicable when the device may have captured an incident involving an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

When an incident arises that requires the immediate retrieval of ICC/BWC 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.

446.6 ACTIVATION OF THE ICC/BWC

The ICC system is designed to activate manually or automatically. The system remains on until it is turned off manually. The BWC system is designed to turn on manually or automatically. The BWC system remains on until it is turned off manually. Automatic activations are referenced in Section 446.6.2.

446.6.1 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. Members should activate the systems any time the member believes it would be appropriate or valuable to record an incident.

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 shall be activated in any of the following situations:

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- (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.
- (e) All Calls for Service (CFS).

Employees 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 employee that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by employees 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 an employee expected to jeopardize his/her safety in order to activate a recording device. However, the device shall be activated in situations described above as soon as reasonably practicable.

446.6.2 AXON SIGNAL ACTIVATION AND AUTOMATIC ACTIVATION

Axon BWCs and ICCs have the capability to automatically activate Event Mode recording when alerted by Axon Signal products. Watchguard ICCs also have the capability to automatically activate. BWCs and ICCs are programmed to automatically activate during the following situations:

- (a) Axon Conducted Energy Device (CED) Signal.
 - 1. The CED will send a signal to activate the BWC to Event Mode recording when the CED is armed, when an arc is initiated, and when the trigger is pulled.
 - 2. The CED signal will activate any Axon BWC in range of the signal.
 - 3. Axon CED signal is disabled when the CED is in Function Test Mode and BWCs will not activate.
- (b) In-Car Camera Recording Systems.
 - 1. Axon Signal Vehicle or Watchguard is installed in most marked police vehicles equipped with emergency equipment
 - 2.
 - 3.
 - 4. The ICC will automatically activate when the vehicle exceeds speeds of 85 miles per hour.
 - 5. The ICC will automatically activate when the vehicle is involved in a collision.
 - 6. If the vehicle is equipped with Axon Signal Vehicle, an automatic activation of the ICC will also activate any Axon BWC in range of the signal.

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7. Special purpose vehicles such as buses, motorcycles, command posts, etc. are not equipped with ICC systems.
- (c) The Axon Signal accessories are intended to supplement and assist in compliance with BWC activation policies, particularly during high stress events. BWC users are ultimately responsible for compliance with procedures outlined in this policy.
- (d) BWC users may use Stealth Mode in situations where it could protect the health, safety, and/or welfare of the user, the public, or other employees of the department.
- (e) BWC users may use Sleep Mode to avoid unnecessary and accidental BWC Event Mode activations from Axon Signal devices.

446.6.3 CESSATION OF RECORDING

Once activated, the ICC and/or BWC system should remain on continuously until the employee 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.

In lieu of ceasing recording altogether, employees may utilize the mute function of the camera. Use of the mute function shall be restricted to one or more of the following situations:

- (a) Personal conversations or personal phone calls not related to the assigned incident.
- (b) At the direction of, or with permission from a supervisor.
- (c) Administrative conversations such as phone calls to make notification up the chain of command.

Tactical planning, public safety statements and other conversations relative to the incident to which the employee is assigned should not be muted. If the mute function is activated, upon turning off the mute function the employee will explain on camera the reason for the muting (personal phone call, conversation, etc.).

Employees 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).

446.6.4 WHEN ACTIVATION IS NOT REQUIRED

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

No employee 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.

446.6.5 SURREPTITIOUS USE OF THE BWC/ICC

Employees 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).

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446.6.6 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.

446.7 PROHIBITED USE OF BWC/ICC SYSTEMS

Employees are prohibited from using Department-issued BWC/ICC 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.

Employees 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. Employees shall not duplicate or distribute such recordings, except for authorized legitimate Department business purposes. All such recordings shall be retained at the Department.

Employees are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. Any employee 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 employee for the purpose of embarrassment, harassment or ridicule.

446.7.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with ICC/BWC is prohibited (Penal Code § 832.19).

446.8 AXON RESPOND

Axon Respond works in conjunction with the BWCs to allow personnel with permissions to view member locations on a map and view live streams from BWCs in real time. The BWCs have been configured to not transmit real time GPS data or live stream video except when in Event Mode recording. BWCs cannot be remotely "pinged" for GPS data or remotely activated to Event Mode recording.

- (a) The Chief of Police or their designee may grant system permissions to view live streams from BWCs that have been activated in Event Mode recording for the purposes of operational real time situational awareness and officer safety during critical incidents including, but not limited to:
 1. An Axon Signal Activation
 2. An ongoing critical incident (use of force, firearms discharge, CED deployment, foot or vehicle pursuit, etc.)
 3. An active assailant incident
 4. A hostage / barricade incident

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5. Determining the safety status of an employee (employee not answering radio, radio communication is not safe or practical, etc.)
6. At a BWC users own request for their BWC to be streamed.
 - (b) Watch Commanders or their designee, personnel in Dispatch, and personnel in the RTIC have system permissions to view GPS locations of BWC for the purposes of operation real time situational awareness and officer safety. When a BWC is in Event Mode recording, the GPS location information is in real time.
 - (c) Axon Respond functions (GPS location and live streams) are only allowed to be accessed and used for official law enforcement related purposes. Supervisors will not arbitrarily, routinely, or randomly use Axon Respond functions for the purpose of tracking subordinates or seeking to discover or identify minor infractions of department policies or procedures. All resources of the department may be used if investigating a complaint or "on-view" violation of department policy. All personnel should be aware that there is an audit log of activity within the Axon Respond application.

446.9 REVIEW OF ICC/BWC RECORDINGS

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

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.

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.

Recordings may also 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.
- (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 employee 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.

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- (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.
- (i) Recordings may be shown for training purposes. If an involved employee objects to showing a recording, his/her objection will be submitted to the Chief of Police or authorized designee to determine if the training value outweighs the employee's objection.
- (j) 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 privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

446.10 IDENTIFICATION AND PRESERVATION OF RECORDINGS

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

446.11 RETENTION OF RECORDINGS

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

- (a) Incidents involving use of force by an employee.
- (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 a law enforcement officer or law enforcement agency.

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.

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

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446.12 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.
- (d) Posting of BWC/ICC recordings on any Department sponsored site without express permission from the Chief of Police or his/her designee (any video posted on a Department sponsored social media or other web site will thereafter be considered public information).

446.12.1 AXON VIDEO RECALL AND RECORD AFTER THE FACT (RATF) VIDEO

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

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

446.12.2 ICC/BWC RECORDINGS AS EVIDENCE

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

446.13 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) Employees 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.

446.14 ICC/BWC TECHNICIAN RESPONSIBILITIES

The ICC/BWC technician is responsible for:

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- (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.

446.15 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.
- (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
- (d) Ensure all other files are maintained in accordance with the Department's retention schedule.
- (e) Establishing a system for downloading, storing and security of recordings.
- (f) Designating persons responsible for downloading recorded data.
- (g) Establishing a maintenance system to ensure availability of operable body-worn cameras.
- (h) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (i) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (j) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (k) Maintaining logs of access and deletions of recordings.

446.16 TRAINING

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