

Use of Portable Audio/Video Recorders - Body Worn Camera Procedures

420.1 PURPOSE AND SCOPE

This policy is intended to provide officers with instructions and guidelines on when and how to use portable audio/video recorders and body worn cameras (BWCs). Syracuse Police Department has adopted the use of BWCs to accomplish the following objectives:

- (a) To enhance officer safety.
- (b) To document statements and events during the course of an incident.
- (c) To enhance officers' ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation and presentation.
- (d) To preserve visual and audio information for use in current and future investigations.
- (e) To provide a tool for self-critique and field evaluation during FTO training.
- (f) To enhance public trust by preserving factual representations of interactions between officers and members of the public in the form of recorded media.
- (g) To assist with the defense of civil actions against officers and Syracuse City.
- (h) To assist with the training and evaluation of officers.

This policy does not apply to mobile audio/video recordings (dashboard-mounted cameras), interviews or interrogations conducted at any Syracuse Police Department facility, undercover operations, wiretaps or eavesdropping (concealed devices).

Additional guidance regarding the use of body-worn cameras during the execution of a warrant is found in the Warrant Service Policy.

420.1.1 DEFINITIONS

The following definitions relate to terms used within this policy:

Agency Administrator - An agency administrator has full access and user rights within the media storage system. An agency administrator can assign and track equipment, control passwords, delete non-evidentiary recordings according to policy and State law, conduct audits and quality control reviews, and act as a liaison with BWC representatives.

Body Worn Camera (BWC)- A system that records digital video and audio which can be mounted in various configurations on an officer's person.

Event (Record) Mode - The mode of operation in which the camera system captures the 30 seconds of buffered video and records both video and audio footage.

Evidence Transfer Machine (ETM) - A docking station that facilitates the secure uploading of all data captured by the controller to media storage while simultaneously recharging the camera and controller systems.

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Media Storage - The web-based media storage facility that stores digitally encrypted video and audio recordings from the camera systems. The data is accessible to authorized personnel and maintains an audit trail of all user activities.

Normal (Buffering) Mode - The mode of operation in which the camera captures a continuous 30 second loop of video but no audio.

Portable Audio/Video Recorders - All recording systems, whether body-worn, held-held or integrated into portable equipment, but excluding mobile audio/video recorders.

420.2 POLICY

It is the policy of this Department that all sworn officers, with the exception of command personnel and some Support Services Division personnel, will be issued a BWC to be utilized while engaged in the performance of their official duties or during those times when the officer is engaged in uniformed outside overtime details that have been arranged and approved by the Department.

All recordings are considered the property of Syracuse Police Department and will be handled in strict adherence to this policy manual. Officers shall have no expectation of privacy or ownership interest in the content of the recordings, unless specifically addressed in this policy.

The captured data from the BWCs will be handled and stored through a web-based, digital storage facility.

420.3 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 of 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 or ownership interest in the content of these recordings.

420.4 MEMBER RESPONSIBILITIES

The BWC system will be issued by the Patrol Division Commander. The unique identification number for each device will be recorded on the individual officer's equipment tracking log. Only those portable audio/video recording systems that are issued by the Department will be allowed to be used during the course of official police duties.

Each officer will be responsible for the care and maintenance of all issued portable audio/video recorders and will inspect BWCs before and after each shift for any physical damage or malfunctions. At the beginning of each shift, each officer will verify that the power is functioning on their BWC and controller by initiating the power button and depressing the battery test function button. This will ensure the operational readiness of the equipment so that it will most likely function properly when activated.

The BWC should be worn in a manner that will best capture a field of view to the officer's front.

Areas for proper wear include the belt and torso. If mounted on the officer's torso, it should be located on the lower half below chest level so that the officer's arms do not frequently cover the camera.

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To conserve battery life, the BWC may be powered off during activities such as meals, breaks, report writing, or while using locker room facilities. Otherwise, the BWC shall remain in normal (buffering) during the officer's entire shift.

In the event a BWC is damaged or malfunctions, the officer will notify his or her immediate supervisor. The supervisor will make notification to the Patrol Division Commander. If necessary, the Patrol Division Commander will arrange for a replacement device to be issued to the officer as soon as possible. All damage, whether it was accidental or occurred during the course of the officer's regular assigned duties, will be documented by a memo to the officer's immediate supervisor and forwarded through the chain of command.

Officers shall document the existence, or lack thereof, of a BWC recording in any report, traffic citation, or other official record, including any instance where the BWC malfunctioned or was deactivated by the officer. Officers shall attach the appropriate incident number to each video utilizing the report management system synching feature or by accessing the media storage system. When circumstances do not require a written report, but a recording has been made, the officer shall indicate this in the call notes and attach the appropriate long term call number to each video utilizing the report management synching feature or by accessing the media storage system.

Any member assigned to a non-uniformed position may, if a recorder is available, carry an approved portable audio/visual recorder at any time that the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever possible.

420.4.1 ACTIVATION OF BWC

This policy is not intended to describe every possible situation where the activation of the BWC is appropriate. In addition to the required situations, an officer may activate a BWC any time the officer believes it would be appropriate or valuable to document the incident.

It is understood that not all situations will clearly start out as necessitating documentation by the BWC, nor will all recorded events have a clear ending for which the BWC is no longer required.

Officers are expected to utilize ethical and legal discretion when activating and deactivating the BWC.

When possible, officers should place the BWC into "Event (Record)" mode before arriving on dispatched calls or engaging in self-initiated activity. The Department recognizes that there are certain circumstances where officers in a proactive (non-dispatched) capacity may become involved in a situation requiring immediate action to prevent injury, make an arrest, prevent the destruction of evidence, or prevent escape. When these situations occur, officers should activate the BWC if doing so does not place them or others in danger. If the immediate activation of the BWC is not feasible due to immediate risk to the safety of the officer or others, the officer should activate the BWC at the first available opportunity after the immediate threat has been addressed. Supervisors need to closely review documentation of such incidents to ensure exigent circumstances did in fact exist.

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Officers should place the BWC into "Event (Record)" mode in the following situations:

- (a) Enforcement stops;
- (b) Dispatched calls;
- (c) Field interrogation or interview, including advising individuals of Miranda rights;
- (d) Use of force;
- (e) Execution of a warrant;
- (f) Crime interdiction stops;
- (g) Traffic stops, including stranded motorist assistance;
- (h) During the seizure of any evidence;
- (i) While taking statements;
- (j) Pedestrian or vehicle contacts; and
- (k) Any encounter that becomes adversarial.

During custodial or hospital transports, the officer may deactivate the BWC to conserve battery life, provided the mobile audio/visual recorder is activated.

If a request is made for a BWC to be turned off by a party being contacted, the officer shall take into account the overall circumstances and what is most beneficial to all involved before deciding to honor the request. For example, an officer may choose to turn off the BWC if its operation is inhibiting a victim or witness from giving a statement. It is up to the officer to determine what is best for the investigation or contact. The reason for deactivating the BWC under these circumstances shall be documented in a written report.

420.4.2 CESSATION OF RECORDING

Once placed in "Event (Record)" mode, the BWC recording should not be stopped until the initial incident that warranted the activation has concluded. Exceptions can be made in the following situations. When a BWC is deactivated, or muted, pursuant to one of these exceptions, the officer shall note the reason in a written report.

- (a) Upon request of a victim or witness, as outlined in 421.4(i)(1) above.
- (b) To consult with a supervisor, attorney, or another officer.
- (c) When involved in a phone call that has no bearing on the incident being investigated.
- (d) During significant periods of inactivity, such as:
 - 1. When an officer is assigned to a perimeter or static post where he or she is not in contact with individuals or actively part of the incident or investigation; or
 - 2. When an officer is involved in administrative tasks, such as waiting for a tow truck or family member, or during similar non-confrontational, non-evidentiary situations.

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When the private conversation is completed, the BWC will be returned to “Event (Record)” mode, or unmuted, so long as the situation still falls under a required use. When the BWC is placed back into “Event (Record)” mode the prior 30 seconds of video (no audio) will be recorded. When the BWC is unmuted, recording of audio begins immediately.

420.4.3 MEDIA STORAGE

Upon the completion of their shift, members will place their assigned BWCs and controller into the ETM for charging purposes and uploading of recorded media. The media that is captured will only be uploaded to Evidence.com and will only be used for official purposes.

Under most circumstances, and to limit potential interruption in the uploading process and possible corruption of the recorded data, removing a BWC from the evidence transfer machine should be avoided until the upload process has completed.

An incident number, or long term call number, will be attached to each recording and a video category must be selected by the officer to allow for proper retention.

420.4.4 PROHIBITED USE OF PORTABLE RECORDERS

Body worn cameras will only be used in conjunction with official law enforcement duties and shall not be used for any personal reason. BWCs shall not be used in the following circumstances:

- (a) During conversations with other City employees not related to current investigations.
- (b) During any encounters with undercover officers or confidential informants if recording could jeopardize their safety or an investigation. Such recordings, when inadvertently captured, shall be designated as protected records and are not subject to disclosure.
- (c) Anytime an officer is engaged in personal activities, such as while on breaks or meals.
- (d) Whenever an individual may have a heightened expectation of privacy, such as restrooms, locker rooms, jails, or hospitals, unless for a direct law enforcement purpose, such as a crime in progress, or if the recording of the location is material to a criminal investigation.
- (e) During conversations between individuals where the officer is not a party to the conversations, unless the capture would be authorized by law.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Sergeant. 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.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

420.4.5 SUPERVISOR RESPONSIBILITIES

Supervisors should validate that officers who are assigned a BWC system are operating the system in a manner consistent with this policy and that the equipment is functioning correctly. This review should be done on a biweekly basis and will be documented. When an incident arises

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that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved collisions), a supervisor shall ensure that the recorded media is properly retrieved or otherwise preserved. The recorded media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

420.5 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 may not alter or delete a recording captured on a portable recorder (Utah Code 77-7a-106).

Members are also prohibited from retaining recordings of activities or information obtained while on-duty whether the recording was created with a department-issued or personally owned recorder. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department (Utah Code 77-7a-106).

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Sergeant. 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.

BWCs shall not be used in the following circumstances:

- (a) During conversations with other City employees not related to current investigations;
- (b) During any encounters with undercover officers or confidential informants if recording could jeopardize their safety or an investigation. Such recordings, when inadvertently captured, shall be designated as protected records and are not subject to disclosure;
- (c) Anytime an officer is engaged in personal activities, such as while on breaks or meals;
- (d) Whenever an individual might have a heightened expectation of privacy, such as restrooms, locker rooms, jails, or hospitals, unless for a direct law enforcement purpose, such as a crime in progress, or if the recording is material to a criminal investigation; and
- (e) During conversations between individuals where the officer is not a party to the conversations, unless the capture would be authorized by law.

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420.6 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 under-cover officer or confidential informant.
- (g) Recorded content contains sound or images from a residence (Utah Code 63G-2-302).
- (h) Recorded content contains sound or images from a hospital, health care facility, human service program or the clinic of a health care provider (Utah Code 63G-2-305).

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.

420.6.1 UNAUTHORIZED MANIPULATION OF RECORDINGS PROHIBITED

Under no circumstances will members edit or attempt to edit, alter, erase, delete, duplicate, copy, record, or distribute by any other means any recordings made with the BWC without the prior authorization and approval from the Police Chief or designee. Any redactions or modifications to records may only be made by personnel authorized by the Police Chief, and an original copy of the recording must be maintained at all times.

420.6.2 DELETION OF UNINTENTIONAL RECORDINGS

In the event there is an accidental or unintentional activation of the BWC where the recording has no investigative significance or purpose, such as while driving in the vehicle or where a reasonable expectation of privacy exists (restroom, etc.), officers may request a recording deletion. The requesting officer must submit an email to their Division Commander detailing the circumstances of the unintentional or accidental recording. If approved, the action will require the Division Commander and another system administrator to facilitate the deletion. The information, to include the officer's name, date of the file, deletion date of the file, and reason for deletion, shall be kept by the Division Commander.

420.7 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

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

420.8 RETENTION OF RECORDINGS

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule and as required by any applicable federal, state and local law (Utah Code 77-7a-107).

420.8.1 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.

420.8.2 CLASSIFICATION OF PORTABLE AUDIO/VIDEO RECORDINGS

Classification of portable audio/video recordings as public, private, protected or controlled will be made on a case by case basis as provided in state law (GRAMA). As a starting point in making such classifications, recordings taken within a person's home, which capture substantial medical treatment being rendered, or in cases in which a person's privacy interests are clearly implicated - such as being in a state of nudity or after suffering serious injury - are presumptive designated as private. Recordings which take place outdoors or in public places are presumptively designated as public.

A person whose privacy interest is implicated by the record may waive the privacy protections provided by the designation.

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A recording may not be eligible for designation as a private record if it was captured within a home or residence, but it also depicts the commission of an alleged crime, records encounters between law enforcement and a person that results in death or bodily injury, records an officer's firing of a weapon, records an encounter that is the subject of a complaint or legal proceeding against the officer or the Department, or if it is a record of an officer-involved critical incident pursuant to state law.

The release of redacted video is encouraged for recordings which are largely public, but contain only a few instances of private information, such as a person telling the officer their social security number or telephone number, or brief images of nudity or injury.

This paragraph does not restrict the City's ability to classify a record as private or protected, if such classification is supported by state law.

420.9 TASK FORCE AND OUTSIDE AGENCY ASSIGNMENTS

The Department participates in several outside agency assignments and Task Forces where the use of a BWC might conflict with the rules, regulations, policies or practices of the Task Force or outside agency. In some instances, the use of recording devices of any kind may be prohibited.

Administration is sensitive to these key relationships that have been developed with various agencies and will work in conjunction with them regarding the BWCs. As a general rule, officers of the Department assigned to a Task Force will follow the rules of the Task Force regarding the use of BWCs.

420.10 TRAINING

Only those officers who have completed department-approved training on the policy, use and operation of the BWC system and the media storage system will be allowed to use the device.

Refresher training should occur annually for anyone who is issued a BWC system.

420.11 COORDINATOR

The Police Chief or the authorized designee should designate a coordinator responsible for establishing procedures for (Utah Code 77-7a-102):

- (a) The security, storage and maintenance of data and recordings.
- (b) Accessing data and recordings.
- (c) Logging or auditing access.
- (d) Transferring, downloading, tagging or marking events.

420.12 PUBLIC ACCESS

The Records Clerk should ensure that this policy is available to the public in written format as well as published to the department website (Utah Code 77-7a-105).