
Portable Digital File Device

438.1 PURPOSE AND SCOPE

The Turlock Police Department recognizes that audio and video file of contacts between sworn Department personnel and the public provides an objective record of these events and the use of an audio and video file system compliments sworn police personnel in the performance of their duties by providing a digital record of enforcement and field contacts. An audio and video file of an event or contact also enables the delivery of timely, relevant, and appropriate training to maximize safety for our personnel and improve the provision of services to the community.

The Department provides Body Worn Cameras (BWC) to sworn police personnel for use while on-duty and no other BWC devices are permitted. These BWCs are intended to assist personnel in the performance of their duties by providing audio and/or video records of contacts. Except as provided below, all enforcement and investigative contacts shall be recorded to ensure we collect audio and video evidence. These files will also protect personnel from false accusations and can be instrumental in resolving citizen complaints.

While files obtained from BWC provide a record of these events, it is understood video files captured by a BWC (or any other file device) do not necessarily reflect the experience or state of mind of the individual employee(s) in a given incident. Moreover, the video file has limitations and may depict events differently than the events recalled by the involved employee. Specifically, it is understood the BWC may capture information that may not have been heard and/or observed by the involved employee and may not capture information observed by the employee.

438.2 POLICY

- (a) Unauthorized use, duplication, and/or distribution of audio and video files captured on a department-owned BWC are prohibited. Personnel shall not make copies of any BWC file for their personal use and are prohibited from using a file device (such as but not limited to, a phone camera or secondary video camera) to record a BWC file. All recorded media, images and audio from the BWC are the property of the Turlock Police Department and will not be copied, released, or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Police, or his/her designee.
- (b) The BWC shall not be used to record nonwork-related activities.
- (c) No member of this Department may surreptitiously video and/or audibly record a conversation of any other member of this Department without the expressed knowledge and consent of all parties. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code § 3303(g).
- (d) Only trained sworn personnel shall operate the BWC equipment.
- (e) Personnel will use only the BWC issued and approved by the Department. The use of any non-Department issued video file devices is not authorized. The exception is

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audio-video recording devices utilized in investigations interview rooms which may be different than BWC.

- (f) Personnel shall not remove, dismantle or tamper with any hardware and/or software component of the BWC.
- (g) Unless unsafe or impractical, all officers issued a BWC should activate their devices prior to making contact in any of the following incidents:
 - 1. Enforcement encounters where there is a reasonable suspicion that the person is involved in criminal activity or a violation of law. This includes, but is not limited to dispatched calls, self-initiated activities, traffic stops, pedestrian checks or any other investigative or enforcement encounter.
 - 2. Any other contact that becomes adversarial after the initial contact; in a situation that would not otherwise require activation of the BWC.
- (h) Officers may activate the BWC before or during any other incident.
- (i) Once activated during an incident or encounter, personnel shall leave the device activated until the reasonable conclusion of that incident or encounter.
- (j) Officers are not required to obtain consent from a private person when:
 - 1. In a public place.
 - 2. In any location where the officer is lawfully present.
- (k) Officers will have access to review their BWC files prior to court, depositions, internal investigation interviews, and report preparation. Public Safety Statements will not be delayed solely to review BWC files.
- (l) BWC files shall be considered an official record related to the specific incident(s) in which they were recorded. BWC files are subject to the timelines specific to the respective incidents for which they were recorded; specified by standard records retention requirements detailed in the City of Turlock Records Retention Schedule: City-Wide Standards.

438.3 RESPONSIBILITIES

Only sworn employees who have received department authorized training on the use of the BWC are permitted to secure or deploy the device. At the beginning of their shift, each sworn employee issued a BWC is responsible for making sure the BWC is in proper working order. If the BWC is not in working order, or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning BWC as soon as reasonably practicable. Sworn employees shall wear the BWC on their person in a forward-facing position that facilitates a comprehensive recording of the contact and/or incident. When donning their BWC, employees should utilize their smartphone Bluetooth BWC application to ensure their BWC is mounted in a position where the field of view is effective for recording. While in contact with the public, employees are not required to announce that the BWC is activated.

Any member assigned to a non-uniformed position may carry an approved BWC at any time the member believes that such a device may be useful. All non-uniformed personnel who are engaged

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in enforcement activities including but not limited to serving a search or arrest warrant or parole/probation search, or suspect contact shall wear and activate a BWC as outline in the Activation of Body-Worn Camera section of this policy.

Field Training Officers who are wearing civilian clothing during the “shadow phase” of the Field Training Program are required to wear and utilize a BWC as outlined in this policy.

Personnel assigned a BWC will upload their digital audio/video files at the end of each work shift.

Sworn employees operating department vehicles may dock the BWC at the end of their shift and then take their assigned vehicle home. It will be the responsibility of the employee to pick up their BWC as soon as practical at the beginning of their next shift. It is recognized that officers may make enforcement stops to and from work, which may result in those stops not being recorded.

Employees shall document the existence of a BWC file in any report or other official record of the contact, including any instance where the recorder malfunctioned, or the employee failed to activate their BWC when required by policy. If a report is not generated as a result of a BWC activation, the employee shall document the existence of the BWC file in CAD or as a notation on a citation or FI Card.

Once video or audio is captured, officers shall identify BWC files by:

- When assigned, noting the TPD case number in the case ID field
- Entering a title. The title should include sufficient information to identify the file, such as a crime code, suspect name, location, event, etc.
- Selecting the appropriate category(s).

The information may be entered via a TPD computer work station or by utilizing the appropriate Axon application on their department-owned cellular phone.

438.3.1 TASK FORCE EXEMPTION

Officers specifically assigned to the Central Valley Gang Impact Task Force (Task Force) shall follow the Memorandum of Understanding between the Federal Bureau of Investigation and this department regarding policies and procedures that govern the performance of their duties as a deputized task force officer.

When the assigned officer is not working as part of the Task Force, and anytime the assigned officer performing duties as a Turlock Police Officer, he/she shall follow this department’s BWC policy.

438.4 OPERATION

While on duty, employees assigned a BWC are required to keep the BWC in the “On” position and in “buffering” mode except in the following circumstances:

- When out of service during an authorized break

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- When inside the Police Department building or secure parking lot, except when an officer is in contact with a member of the public and the contact appears to be escalating to an adversarial situation or conducting investigative activities involving contact with the public (i.e. interviewing victims and/or witnesses)
- While using the restroom
- While buffering is not actively recording, employees are advised the BWC will capture 30 seconds of video preceding the activation of the BWC

438.5 ACTIVATION OF BODY WORN CAMERA

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

Unless a contact is being recorded within a department interview room, all enforcement and in-person investigative contacts by sworn personnel issued a BWC, should be recorded.

The BWC should be activated prior to the contact or initiation of the following:

- All enforcement and investigative contacts including stops and field interview situations
- Traffic stops including, but not limited to, traffic violations, stranded motorist assistance, and all crime interdiction stops
- Self-initiated activity in which a member would normally notify Police Dispatch
- Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require activation of the BWC
- Code-3 responses
- While manipulating, examining, or taking possession of (even temporarily) the property of another
- Transportation of prisoners, suspects, and witnesses.

In the event an employee is unable to activate his/her BWC as directed above, or in any instance during which an employee determines a BWC cannot or should not be used, the employee shall document the reason the BWC was not used in a police report. Circumstances when a BWC may not be used include but are not limited to:

- Officer safety would be compromised due to unexpected or sudden altercation.
- A community member requests the BWC be turned off before giving information. Officers shall ultimately make the decision if the BWC will be turned off in these instances.
- A health care provider is discussing medical issues with a patient.
- While in a hospital for the sole purpose of waiting for an arrestee to be medically cleared. However, the BWC should be turned on in the hospital if a situation arises which requires police action.

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- While conferring with other officers regarding the specifics or tactics of a call.

Penal Code 632 prohibits an individual from surreptitiously recording a conversation in which any party to the conversation has a reasonable belief the conversation is private or confidential, however, Penal Code 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation.

A BWC shall not be used when conducting an internal affairs investigation.

No member of this Department may surreptitiously record any other member of this Department without authorization from the Chief of Police or designee.

438.5.1 CESSATION OF RECORDING

Once activated, the BWC should remain on continuously until the employee's participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant period of inactivity such as report writing or other breaks from direct participation in the incident.

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).

438.5.2 EXPLOSIVE DEVICE

The BWC may emit radio waves that could trigger an explosive device. Therefore, a BWC should not be used where an explosive device may be present.

438.6 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

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

438.7 STATEMENTS AND REPORTING

All recorded victim, witness and suspect statements, as well as any other evidence specifically recorded, shall be identified as such in the corresponding report for future use. Employees should not use the fact that a audio and video file was made as a reason to write a less detailed report.

438.8 IDENTIFICATION AND PRESERVATION OF FILES

To assist with identifying and preserving data and files, employees shall download, tag or mark these audio and video in accordance with procedure and document the existence of the audio and video file in any related case reports. Employees shall dock their BWC in the appropriate docking station at the end of their shift, or any time the storage capacity is nearing its limit.

Any time an employee reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the employee should promptly notify a supervisor of the existence of the file.

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438.9 RETENTION OF BWC MEDIA

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

- Incidents involving use of force by an officer
- Officer-involved shootings
- Incidents that lead to the detention or arrest of an individual
- Files relevant to a formal or informal complaint against an officer of the Turlock Police Department
- Files 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 files should be retained for a period consistent with the requirements of the City of Turlock's Records Retention Schedule but in no event for a period less than 1 year. Files that become part of a personnel complaint or administrative/internal investigation will follow the retention time identified for the complaint/investigation.

Personnel utilizing the BWC shall identify each video category. Categories and Retention Periods:

- Uncategorized (1 year).
- Arrest – Felony (7 years).
- Arrest – Misdemeanor (3 Years).
- Citizen Complaint (5 Years).
- Citizen Contact – Pedestrian/bicycle stop, Consent/Detention (2 years).
- Critical Incidents (2 Years).
- Homicide/Sex Case (Until Manually Deleted).
- Pursuits (2 years).
- Restricted Evidence (Until Manually Deleted).
- Traffic Stops/Traffic Collision Investigations (2 Years).
- Training or Testing (1 Year).
- Use of Force (2 Years).

Restricted BWC Evidence:

BWC evidence that may be sensitive in nature can be restricted to access only by those designated by the Chief of Police. To restrict BWC evidence, add the category of "Restricted Evidence" to the video. This will remove the video from any search or view feature from Evidence.com for all users other than those designated by the Chief of Police.

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438.10 BWC STORAGE MEDIA AS EVIDENCE

In exceptional circumstances, the digital recorder may be booked into evidence prior to any uploading of media storage. Exceptional circumstances may include a major or significant incident, or in the event the data cannot be uploaded due to a mechanical or technological malfunction. If the storage media is booked into evidence, established booking procedures shall be followed and referenced in the report.

438.11 SUPERVISORS

- (a) Shall review BWC files to ensure that officers are utilizing the BWC in accordance with this policy.
- (b) Supervisors shall take custody of a BWC device 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.
- (c) When evaluating a use of force incident, supervisors shall review BWC files prior to completing the Use of Force Memorandum required by Policy 300.7.
- (d) Supervisors may have the ability to immediately resolve citizen complaints by reviewing BWC files. When a complaint is resolved with no further action needed, supervisors shall add an additional category of Citizen Complaint to the video and make appropriate notes in the Notes section of Evidence.com. This will allow Professional Standards personnel to track incidents resolved by the use of the BWC system. This does not take the place of a formal memorandum to chain of command should a complaint form be completed.
- (e) Supervisors should conduct a random or directed review of files at least once per workweek to ensure adherence to policy, assess performance and note videos that may be appropriate for training purposes.

438.12 SYSTEM ADMINISTRATOR

The System Administrator is designated by the Chief of Police and has oversight responsibilities to include, but not limited to:

- (a) Documenting system malfunctions as well as equipment failure related to BWC.
- (b) Properly training administrative/sworn staff regarding the use retention, and confidentiality of video records.
- (c) Maintain equipment in a secure environment.
- (d) Issue BWC devices and provide BWC training and instruction on use and operation of BWC.
- (e) Provide recommendations on additional policy development and equipment integrity.
- (f) Shall ensure the development of and adherence to an auditing process.
- (g) Standard maintenance of BWC audio and video files, to include procedures that ensure proper review and release of BWC files in accordance with federal, state, local

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statutes, Turlock Police Department Policy § 806, and City of Turlock and Turlock Police Department Records Retention Schedule: City-Wide Standards).

438.13 BWC FILE REQUESTS

A copy of an audio and video file may only be released to a third party in response to a valid law enforcement investigative request, a valid court order, or by approval of the Chief or his/her designee. In those cases where the release of audio and video is authorized, it shall only be released with the approval of the Special Operations Captain.

No BWC audio and video file release in conflict with Penal Code § 832.7 shall be authorized.

When BWC audio and video footage is requested via a Public Records Act Request, the request will be handled in accordance with department procedure and release of any footage will only be with the approval of the Chief of Police or his/her designee in accordance with state disclosure laws.

438.14 BWC FILES STORAGE AND INTEGRITY

Digital files may not be deleted by any person from the BWC or the archival storage media without the authorization of the Chief of Police or authorized designees. Only the Special Operations Captain or his/her designees may produce, reproduce, or modify files for production in response to a civil subpoena, Public Records Act request or other request.

No audio and video files shall be transferred or sent via email except in unusual circumstances and with the approval of the Special Operations Captain.

All audio and video files are considered official Department records and shall not be shared with any person not having the authorization to access the files as part of his or her official duties.

In the event audio and video files are utilized for training purposes and the involved employee(s) object to the use of the video, such objection shall be submitted to the Special Operations Captain for consideration.

In the event of an accidental activation of the BWC, where the resulting audio and video file is of no investigative or evidentiary value, the employee may request the BWC audio and video file be deleted by submitting an email request with sufficient information to locate the BWC file to their Divisional Captain or designee. The audio and video file will be reviewed and the request will be either approved or denied and forwarded to the system administrator for action. In the event that an accidentally recorded video is made of an employee in a setting such as a restroom or dressing room and contains nudity or other potentially private content, the Division commander shall ensure the audio and video in question is reviewed by a person of the same sex as the individual featured in the audio and video file and deleted as soon as practicable.

Records or logs of access and deletion of audio and video files should be retained permanently (Penal code 832.18).

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438.15 REVIEW OF BWC MEDIA FILES

Unless prohibited by applicable law, recorded audio and video files may be viewed in any of the following situations by the following personnel:

- (a) By the employee(s) who originally recorded the incident, to include prior to administrative interview.
- (b) With prior supervisory approval, an employee may review another employee's file provided the other employee was also directly involved in the incident in question. Permission will not be granted in circumstances involving internal affairs investigations.
- (c) By a supervisor investigating a specific incident involving a department employee.
- (d) During a random video audit by a supervisor.
- (e) By a department detective or investigator who is performing follow up investigation.
- (f) Pursuant to lawful process or by court personnel otherwise authorized to review evidence in a related case.
- (g) Third-party investigations: In the event a third party law enforcement agency is conducting a criminal investigation related to an incident involving a Department employee, files may be made available to that agency.
- (h) The Chief of Police has the discretion to allow viewing or release of recorded audio and video files if the Chief of Police determines it is in the best interest of the Police Department or the City of Turlock. When appropriate, every effort will be made to notify involved employees prior to release.
- (i) With the approval of the Chief of Police or authorized designee, videos may be used for department training. Every effort will be made to notify involved employees prior to the use of the video for training.
- (j) Subject to the provisions of this policy and relevant statutes, the Chief of Police may prohibit the review of any audio and video files by Department employees if it is determined it is in the best interest of the Police Department or the City of Turlock.
- (k) Evidence.com shall only be accessed from Department authorized computers, such as Department workstations or MDC's. Access to Evidence.com from a home computer or unauthorized mobile device is not permitted

Exception: Administrative users of Evidence.com may access Evidence.com from a computer or device outside of the Department for the purpose of completing administrative tasks, such as locking or unlocking users, etc.

438.16 SIGNAL SIDEARM

Employees on duty and assigned a BWC shall have a working Signal Sidearm actuator attached to their on-duty handgun holster. A working Signal Sidearm actuator is an actuator that utilizes Bluetooth technology to activate an employee's assigned BWC whenever the handgun is removed from the holster.

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438.17 AXON AWARE+

Definitions

Live Mapping: A situational awareness feature available through the Axon Evidence (Evidence.com) online portal and Axon Aware mobile app which allows authorized users to view the real-time location of officers actively recording an incident using an Axon Body 3 camera.

Live Streaming: A feature available through the Axon Evidence online portal and Axon Aware mobile app for authorized users to remotely view an officer's actively recording Axon Body 3 camera.

Emergency Alerts: An alert displayed to authorized users of the Live Mapping feature of Axon Aware+ when an officer activates a Conducted Energy Weapon (CEW), draws a firearm from a Signal Sidearm equipped holster, when certain actions occur within Axon Fleet vehicles, such as activating the light bar, or when a Body 3 camera identifies the sound of gunfire.

Live Mapping Function

The following Turlock Police Department personnel are authorized to use the Live Mapping feature of the Axon Aware+ platform to improve situational awareness of where officers are located while actively recording incidents in the field:

- On duty Emergency Services Dispatcher/Supervisor
- On duty Patrol Supervisors
- Command Staff (Lieutenants, Captains, Chief of Police)

Authorized personnel assigned to the following functions should monitor or utilize the Live Mapping function of Aware+ to maintain situational awareness as part of their assigned duties:

- On Duty Emergency Services Dispatcher/Supervisor
- On duty Patrol Supervisors
- Command Staff (Lieutenants, Captains, Chief of Police)

Emergency Alerts

- When an authorized user assigned to dispatch receives an emergency alert through the Live Mapping function, the user shall:
- Notify a supervisor or watch commander;
- Deploy appropriate resources (e.g. back up units, emergency medical personnel);
- Document the alert and any actions taken in CAD;

Live Streaming Function

- The following Turlock Police Department personnel are authorized to use the Live Streaming feature of the Axon Aware+ platform to improve situational awareness of what is occurring while an officer is actively recording an incident in the field:
- On Duty Emergency Services Dispatcher/Supervisor

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- On duty Patrol Supervisors
- Command Staff (Lieutenants, Captains, Chief of Police)

Personnel authorized to use the Live Streaming Function and assigned to dispatch, as a field supervisor, or watch commander, should remotely view the live stream, when feasible, of the following incidents to maintain situational awareness and provide necessary support:

- Vehicle or foot pursuits
- High-risk traffic stops
- Active shooter incidents
- Critical Response Team calls for service
- Officer-Involved Shootings
- Any incident where a dispatcher or supervisor is unable to get a response from an officer on the radio or via telephone after multiple attempts
- Any incident where an officer can be heard struggling or fighting with a suspect over the radio
- Any 11-99 or Code 33 request from a Turlock Police Officer