

# Camera Recording

## 434.1 PURPOSE AND SCOPE

The purpose of this policy is to provide officers with guidelines for the use of camera recording equipment and software. This includes body worn cameras, fleet cameras, and other camera recording devices. The Troy Police Department, in partnership with the community, provides impartial, ethical, and professional law enforcement services and protection. In an effort to improve transparency, accountability, and professionalism, the department has currently instituted a body worn camera program and fleet camera program.

## 434.2 POLICY

It is the policy of the Troy Police Department that personnel shall utilize Body Worn Cameras (BWC), Fleet Cameras and their recordings in a manner that is in accordance with applicable laws and the procedures set forth in this policy. Camera recordings have proven to be a valuable tool in the prosecution of criminal offenses and violations as well as a powerful training aid and offer liability protection for the agency and its members.

### 434.2.1 DEFINITIONS

**Body worn cameras (BWC)** - Audio/video recording equipment to be worn on an Officer's person. The Troy Police Department currently uses Axon cameras.

**Agency administrator** - An agency administrator, authorized by the Police Chief, has full access to and user rights within the data storage system. He or she can assign and track equipment, control passwords, oversee needed repairs, delete recordings, redact recordings, conduct audits and quality control reviews, and acts as a liaison with vendor representatives. There will be a sub-administrator, authorized by the Police Chief, to act in the absence of the agency administrator.

**Fleet camera (a/k/a in-car camera system)** - 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 a monitor. The Troy Police Department currently uses the Axon Fleet Camera System.

**Enforcement related activity** - Situations during an officer's official duties that include, but are not limited to:

- (a) Traffic stops;
- (b) Search warrants;
- (c) Arrests;
- (d) Confrontational/adversarial citizen contacts; or
- (e) Street level "show-up" identification procedures.

**Member** - Any person duly appointed to the Troy Police Department as a sworn police officer as defined in New York State Criminal Procedure Law.

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#### **434.3 BWC ASSIGNMENTS**

- (a) All members working in patrol and CSB, with the exception of S.O.S., shall attach their assigned BWC (or authorized replacement) to their uniform after line-up and shall be required to wear it for the entirety of their shift, unless otherwise ordered by a superior officer.
- (b) All members assigned to the Detective Bureau and members of S.O.S. shall be required to wear and activate a BWC while engaged in the following activities:
  1. Arrests in the field; and
  2. Search warrant executions.
    - (a) For those instances where members of the department are executing a search warrant combined with the intent to interview an individual associated with the investigation, the member may communicate a request to not equip a BWC during the search warrant execution to the Captain of Detectives or a Chief of Police. This request must occur PRIOR TO any search warrant execution. The request, if approved, will be documented on a supplemental report. (e.g. A search warrant to seize a non-adversarial witness'/victims' cell phone with the intent to interview the witness/victim).
- (c) Members assigned to other agencies, such as the FBI, ATF, DEA and the U.S. Marshal task forces shall not wear a City of Troy BWC. A TFO working as a TPD Detective/Investigator shall wear a BWC as noted in subsection B (above).
- (d) All provisions of this policy apply to those ERT members who are assigned to wear a BWC by the ERT Commander.
- (e) All members working secondary employment AND who are required to wear the Troy Police uniform shall be required to wear a BWC and adhere to the directives in this policy while wearing the Troy Police uniform.
- (f) All provisions of this General Order apply to anyone referred to in Article IV unless specified otherwise.
- (g) All questions concerning BWC assignments or other issues related to BWCs shall be directed to the Agency Administrator or his/her designee who shall provide a response as soon as practicable.

#### **434.4 PROCEDURES**

- (a) Members shall only use a BWC system that has been issued and approved by the department, except those members to whom Article IV(C) applies.
- (b) Members shall use a department BWC while on-duty.
- (c) No BWC shall be accessed, viewed, copied, disseminated, or otherwise used by a sworn or non-sworn employee, except for an official purpose specified in this directive.
- (d) No member shall wear or operate a BWC unless the member has been authorized to do so by the Chief of Police or his/her designee, and has received BWC training through the Department.

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- (e) Fleet cameras shall be powered on at the start of the member's tour, before responding to any calls for service. They shall be left on whenever the vehicle's ignition is turned on.
- (f) Prior to use, all Fleet Camera components shall be tested by the user to ensure proper functioning. This includes powering all equipment on and logging into any additional software on the vehicle's mobile data terminal.
  - 1. If any Fleet Camera component (Hardware or Software) is malfunctioning the member shall notify his/her direct supervisor and the agency administrator at the start of the member's tour or as soon as possible after discovering the malfunction. No member shall remove, manipulate, or modify system components without the express authorization of the agency administrator.
- (g) Prior to use, all BWCs shall be tested by the user to ensure proper functioning.
  - 1. If a BWC is malfunctioning, the member shall notify his/her direct supervisor and the agency administrator as soon as possible after discovering the malfunction, and a replacement will be supplied.
- (h) BWCs/Fleet Cameras shall be activated immediately during the initial response to the following situations if responding in "emergency mode" (Lights and/or siren used). If responding in "non-emergency mode" (no lights or siren used), the activation of the fleet camera is not required and the body worn camera shall be activated prior to or while exiting the agency vehicle.
  - 1. All enforcement related activity, as defined by Article III(D) unless otherwise specified in this policy
  - 2. All calls for service unless otherwise specified in this policy
  - 3. All pursuits (vehicle and foot);
  - 4. All field interviews;
  - 5. All use of force situations;
  - 6. When administering Standardized Field Sobriety Tests:
    - (a) BWCs can be turned off if tests are performed in booking;
  - 7. When a supervisor directs activation;
  - 8. When responding to emergency calls;
  - 9. Custodial transports.
- (i) Except for situations described in subsection "J" below, BWCs may be utilized in the interest of law enforcement, at the discretion of the member or a supervisor.
- (j) BWCs shall not be activated for the following:
  - 1. To surreptitiously record other department personnel;
  - 2. To ridicule or embarrass anyone;
  - 3. Knowingly in violation of law;
  - 4. During strip searches or visual cavity searches;

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5. When interviewing sexual assault victims;
6. When interviewing obvious juvenile victims;
7. For internal police conversations (e.g., locker room, line up room, bathroom);
8. Other law enforcement meetings;
9. Personal use;
10. In the event officer safety or the safety of any person prevents immediate activation, in which case the BWC shall be activated immediately when it is safe to do so.

(k) Members may utilize the audio muting function during an active recording for a brief duration with articulable reason. Prior to muting any audio the member shall speak their intent during the active recording.

(l) Once activated, the BWC will not be turned off unless directed otherwise by a supervisor or as outlined in this policy. A camera may be deactivated and returned to buffering status once the incident has been resolved and/or the member is no-longer in contact with any involved parties (i.e. completing reports, etc.)

(m) Members shall inform members of the public that they are being recorded when it is safe and advisable to do so.

(n) If a member fails to activate the BWC, fails to record the entire event, or interrupts the recording, the member shall document on the report why a recording was not made, was interrupted, or was terminated.

1. In the event a report is not generated for the contact (e.g., traffic stop, advisement), the member shall document the lack of recording on a supplemental report or written record in CAD.

(o) If a recording was made by accident or needs to be deleted the member shall make a request on a BWC Request form to the agency administrator. The results of said request will also be documented and kept on file.

(p) Members are encouraged to notify their supervisors of any recordings that may be of value for training purposes.

(q) Members will be provided time during each shift to upload the BWC recordings and store the BWC in the designated docking stations to be charged.

(r) BWC are to be powered OFF upon entering the Central Station. They are to remain OFF within the Central Station except for a brief period when undocking. If a member is in contact with an adversarial individual in booking or the front lobby the member may activate their individual BWC and use in the 'Recording' status. BWCs are to be powered OFF upon entering the TPD Administrative Building & Special Operations Section Building. They are to remain OFF within the TPD Administrative Building & Special Operations Section Building. A BWC shall be powered off shortly prior to arriving at their personal residence or private residence for a meal/break. The BWC shall be powered on after exiting the residence and returning to service.

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- (s) BWCs are to be in a BUFFERING status when in any school, hospital or jail. If you were previously recording (i.e. mental health transport) you will stop the recording and remain in the buffering status when entering the building (school, hospital or jail). If at any point a member determines recording evidence will be beneficial to the police response then the member may activate their BWC in a recording status at any time
- (t) Members with assignments that include tasks outside of our jurisdiction (DRE, K9, ERT) will utilize BWC in accordance with TPD policy. Any authorization of release of recorded evidence to the partner agency will be done through chain of command to the Deputy Chief of Police
- (u) Categorizing Evidence – All recordings must be categorized with at least one of the following categories.
  1. Arrest - If an arrest was made during the response.
  2. No Arrest - If no arrest was made during the response.
  3. Investigation (Additional Tag) - If a warrant application or DB follow-up is being conducted.
  4. ERT (Additional Tag) - If ERT records the evidence.
  5. SOS (Additional Tag) - If SOS records the evidence.
  6. Restricted - If there are considerations that the evidence should be accessible by command officers.
  7. Taser Download - Only used for Taser CEW data.
  8. Test - Accidental/test recordings

#### **434.5 AUDIO/VIDEO REVIEW**

- (a) Civilians shall not be allowed to review body worn camera video recordings at the scene or at the desk and must file a request pursuant to the Freedom of Information Law.
- (b) Members are prohibited from recording, copying and/or duplicating any BWC/Axon-generated recordings using a secondary device or screen capturing technology.
- (c) Members will have the ability to review their own recordings to ensure accurate written reports but not as a substitute for independent memory of events. A 710.30 notice must be prepared if the member intends to use a defendant's statements for prosecution.
  1. Members shall not substitute "refer to video" for detailed and thorough written narrative.
  2. Members will only be allowed to access their own recordings unless otherwise specified in this policy.
    - (a) A Field Training Officer (FTO) may view their Officer in Training's (OIT) recording for the days they are training them. In the event that a FTO wishes to view their OIT's recordings for a date that they were not training them the request must go through the Sergeant in charge of the FTO program.

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(d) Members shall be permitted to review BWC recordings from the BWC that he or she wore during an incident that is the subject of an internal affairs investigation. The member shall be afforded a sufficient opportunity to review the relevant recording prior to an internal affairs interrogation, and the member may have his or her union representative and attorney present during that review.

The member, attorney, and union representative are prohibited from making a copy and distributing the recording. The original recording shall remain the property of the City of Troy. Unless required to be produced by court order or court issued subpoena, the original recording shall remain in the possession of the City of Troy Police Department.

Should disciplinary charges be filed by the City of Troy against a member, the member shall have a right to a copy of any BWC recording of the incident that is the subject of the disciplinary charges.

### **434.6 SUPERVISORY RESPONSIBILITIES**

(a) Supervisors shall be provided time to ensure that members equipped with BWCs utilize them in accordance with this policy.

1. Supervisors shall be provided time to randomly review four or more BWC recordings a month to ensure that the equipment is operating properly and that members are using the devices in accordance with the policy. Supervisors may also use these reviews to identify training needs. Supervisors will rotate the members whose recordings are viewed unless specific training needs are identified.
2. Supervisors shall not arbitrarily review recordings for the sole purpose of searching for violations of policies or laws, but shall review recordings in connection with a specific complaint or incident, or otherwise in furtherance of their lawful and articulable supervisory responsibilities.

### **434.7 AUDIO/VIDEO PRESERVATION**

(a) Members shall request that specific audio/video files be preserved by properly categorizing the video (In cases of arrest) or by submitting a Troy Police Department BWC Request Form to the agency administrator.

(b) The video clerk will review the daily reports to ensure that all necessary files have been requested for preservation.

(c) Members may request that multiple audio/video files from one shift be preserved by listing the specific incidents to be preserved on one form.

(d) If a member makes a preservation request for audio/video captured from their unit and there is audio/video captured of the same incident by another unit, a separate request for file preservation must be done for the other unit's audio/video files.

(e) Members must request that BWC recordings be preserved in the event of a recording of:

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1. An arrest and/or critical incident;
2. An injury to an officer and/or subject;
3. Any use of force situation;
4. The receipt by the member of a civilian complaint and/or notice of claim; or
5. The receipt by the member of a notice from any prosecutorial agency;

(f) A supervisor may request to preserve BWC recordings of an incident for any lawful purpose.

(g) In the event a request to preserve has been denied, the member has the option of requesting a copy for him or herself and an authentication by the Agency Administrator.

#### **434.8 AUDIO/VIDEO FILE STORAGE AND RETENTION**

All BWC recordings will be held for a minimum period of 180 days. Tests and accidental recordings may be destroyed thereafter unless the video is tagged for retention or a request is granted for further retention of the file. In such cases, the recordings may be preserved as long as necessary to resolve the relevant matters. All other recordings will be stored for a minimum of three years and 183 days.

#### **434.9 RELEASE OF BWC RECORDINGS**

- (a) Audio/video recordings can only be released to the media by the Chief of Police or his/her designee, after consultation with the Mayor and Corporation Counsel of the City. All FOIL requests will be processed according to current departmental directives and City ordinances, or as otherwise required by New York State law.
- (b) All recordings must go through a redaction process prior to being released to the media.
- (c) BWC recordings shall be released to the DA's office as authorized by the agency administrator or directed by the Chief of Police or his/her designee.
- (d) Data sharing to RCDA – The video clerk will review recordings during the workday to locate those categorized as "Arrest", all of which will be shared to the Chief ADA for further dissemination throughout the RCDA office. The video clerk will also be responsible for responding to any requests for evidence from the RCDA office. Members of the Detective Bureau will be responsible for transferring their evidence.com case to the Chief ADA following an arrest involved in a Detective Bureau investigation.

#### **434.10 MISCELLANEOUS**

No member shall be disciplined for violation of this General Order or misuse or incorrect use of a BWC or related equipment for the initial three month period after the member has completed initial training on the operation and use of BWCs or has used the BWC for a continuous three month period, whichever is later.