I. POLICY

The Davis Police Department provides most sworn officers with body worn video cameras for use during the performance of their duties. All video recordings made while working as a member of the Davis Police Department – in any capacity – are the property of the Department, and subject to review by the Department and its agents. The use of personally owned video recording devices is prohibited.

It is the specific intent of this policy to capture/record all interactions, including phone calls, related to criminal investigations on body-worn cameras or other recording devices to the extent that can be done so without violating specific privacy rights contained in the law. Interactions related to non-criminal actions should be recorded when there is consent and/or as otherwise provided in this policy.

II. PURPOSE

The Davis Police Department recognizes that video and audio recordings of interactions between law enforcement personnel and the public can provide a record of those events. The use of body worn camera (BWC) equipment is intended to assist officers in the field during the performance of their duties, and enhance the mission of the Department, by capturing those interactions between sworn officers of the Department and members of the public. To multiple ends, BWC video can provide additional information regarding enforcement and/or investigative activities and public interactions, as well as assist in collecting evidence for use in criminal investigations, including identifying and apprehending offenders, and obtaining, collecting, and preserving evidence for use in criminal prosecutions.

Such recordings, however, provide a limited perspective of the encounters, and must be considered along with all other available evidence – such as witness statements, officer interviews, forensic analyses, and documentary evidence – when evaluating the appropriateness of an officer’s actions.

The Department has adopted the use of BWCs and has established BWC procedures to:

- Collect evidence for use in criminal investigations and prosecution;
- Assist officers with accurately completing reports and providing court testimony;
- Promote accountability;
- Deter criminal activity and uncooperative behavior during police-public interactions;
• Assist in the investigation and resolution of complaints against officers; and
• Provide information to aid in officer evaluation, training, and continuous improvement.

III. PROCEDURE

A. Guidelines for Activation of BWC

1. Officers, including plain-clothes officers, are expected to record activities and interactions that include, but are not limited to, the following:

   • Arrests and detentions, or situations where an officer reasonably believes they will make an arrest or detention (to include pedestrian/traffic stops and consensual encounters made with the intent to develop reasonable suspicion to detain);
   • Assisting in an arrest or detention situation;
   • Uses of force;
   • Confrontational law enforcement related interactions;
   • Vehicle and foot pursuits;
   • Suspect interrogations and Miranda advisements (excluding interrogations occurring in a recorded interview room) and, generally, interviews of victims and witnesses; and
   • Forced entries, search warrants, and warrantless searches (including vehicles).

   Officers are expected to activate their BWC as soon as practicable upon encountering the above types of events. Optimally, officers should activate their BWC prior to arrival at these types of events in order to ensure the entire event is captured. When an officer is unable to activate their BWC at the beginning of an event, they should document the reason in their police report; if a police report is taken. At no time should an officer jeopardize their safety, or the safety of any other officer, in order to activate a BWC.

   Officers may use discretion when deciding whether or not to advise a person they are being recorded. Generally, officers should not cease recording based solely on the request or demand of a person.

2. Informal Community Interactions (Public Encounters) – Informal community interactions differ from the “consensual encounters” officers’ conduct in an effort to develop reasonable suspicion to detain or probable cause for arrest. To strengthen relationships between police and the public, officers may use discretion regarding the recording of informal, non-enforcement related interactions with the public. In the event an encounter becomes adversarial or an enforcement action may take place, officers are expected to activate their BWC; without compromising their safety or the safety of others.

3. Victims and Witnesses of Crime – Officers are expected to record interviews of crime victims and witnesses. Officers have no obligation to advise victims or witnesses that they are being recorded, but may do so at their discretion. When a victim or witness requests they not be recorded, officers may consider their request when deciding whether to continue recording or not. Officers may offer to avert their BWC to capture only audio during the interview when doing so would facilitate obtaining a recorded statement.

   In cases where a victim or witness requests they not be recorded, and the officer agrees not to record, officers should record their request prior to turning off their BWC. Minimally, the person should be told that a criminal case could be hampered by not
recording the interview. When an officer is already recording, they shall record their explanation for turning off their BWC prior to doing so.

In the event a crime witness or a member of the public wishes to anonymously report or discuss criminal activity, officers have the discretion to not record.

4. **Domestic Violence Victims** – Officers are expected to record interviews of domestic violence victims to facilitate future prosecution efforts and discourage later recanting of statements. Officers are expected to also record interviews with children who witness domestic violence, when the child is willing.

5. **Child Abuse and Sexual Assault Victims** – Officers are expected to record interviews. In cases where the victim requests they not be video recorded, officers should minimally audio record the interview.

6. **First Amendment Activity** – Officers should not record individuals who are picketing, or engaged in peaceful protest or First Amendment protected speech/activities – unless the officer believes a violation of criminal law is occurring, may occur, or if the officer has direct interaction with a participant or third party to the event.

B. **Knowledge of Recording**

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

- Any officer may surreptitiously record conversations during the normal course of duty related to a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation.
- Any officer contacting an individual suspected of violating any law, or during the course of any official law enforcement related activity, shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other officers occurring for solely administrative purposes.
- Any individual contacted by an officer of the Department wearing a conspicuously mounted recording device (BWC) will be deemed to have knowledge that such a contact is being recorded.

C. **Operating Procedures**

1. Officers, including plain-clothes officers, who have been issued a BWC shall wear it at all times they may become involved in an enforcement situation. Officers shall position the BWC to facilitate an optimum recording field of view.

2. At the beginning of their shift, officers will inspect the BWC for any physical damage and to ensure the device is in working order. Any damaged, malfunctioning, or missing equipment shall be immediately reported to a supervisor. Additionally, as soon as practicable, notification of the equipment problem should be made, via email, to PDIS. Additionally, officers shall notify dispatch over the radio if they are not wearing a functional BWC. Dispatch shall log the information in CAD under the officer’s unit history for their shift.
3. In general, once the BWC recorder is activated, officers are expected to continue recording until the incident has concluded, recording is no longer relevant, or there is no apparent value to continued recording.

- A BWC may not be turned off during a use-of-force incident until the event has fully stabilized and never while in the presence of any person threatened with or subjected to force.
- If the BWC is in use during any other situation, and it becomes necessary to discuss issues or concerns with another officer or supervisor in private away from any person who is being detained and/or in custody, the BWC may be turned off. The intention to stop the recording will be noted by the officer verbally before switching the device off. When the private conversation has ended, the BWC recording is expected to resume.

4. Either a patrol car’s in-car camera or an officer’s BWC must be activated during the transport of any person. Officers are expected to record the processing and/or booking, and all other interactions with a person who is in custody.

5. When an interview is to be recorded, and time and opportunity permit, the recording officer shall:

- Test the recording device/equipment to ensure it is functioning and ready to record prior to commencing the interview or recording;
- Make a statement at the beginning of the recording to identify:
  - The date and time of the interview or recording;
  - The location of the interview or recording; and
  - The identities of all parties involved in, or present at, the interview or recording.
- Record any other pertinent and/or identifying information, such as phone numbers called during recorded interviews, informant numbers when name identities cannot be used, etc.;
- Describe the time of, and reason for, any temporary stoppage of the recording and include the fact all parties had knowledge of the stoppage;
- Record the date and time recording ended at the conclusion of each interview; and
- Whenever possible, ensure the device recorded properly before the interviewed person leaves.

When circumstances do not permit compliance with the above guidelines (i.e., spontaneous recordings) as much of the information as possible should be included at the end of the recording to identify the conversation.

6. Officers are responsible for transferring all recordings to the proper Department file server by the end of each shift and before going off-duty.

D. Prohibited/Restricted Recordings and Acts

1. BWCs shall not be used to record non-work-related, personal activity.

2. BWCs will not intentionally be activated in places where a heightened expectation of privacy exists, such as workplace locker rooms, dressing rooms, or restrooms.

3. No type of recording device may be intentionally activated to record the conversations of fellow members or superiors without their knowledge.
4. Officers should not record undercover officers or confidential informants, absent supervisor approval under limited circumstances.

5. When possible, officers should avoid recording exposed private areas of the body.

6. Officers should not record patients during any medical or psychological evaluation or treatment by a healthcare professional unless the person is engaging in violence or may engage in violence or when force was used against the person during their arrest or detention. While inside a medical or psychological facility, officers should avoid recording persons other than the intended person.

7. Recordings shall not be made or used for the sole purpose of ridiculing or embarrassing any department member or member of the public.

8. Members shall not obtain or convert, for their personal use, any recordings obtained during the course of their official duties. The following are specifically prohibited:

   • Making personal copies of official recordings;
   • Re-recording of videos with other devices;
   • Posting of official video and/or audio to any non-Department sponsored social networking or other web sites; and
   • Posting of recordings on any Department sponsored site without the express permission from the Police Chief or their designee. Any video posted on a Department sponsored social media or other website will thereafter be considered public information.

9. Recordings shall not be transmitted, shared or transferred via e-mail (or by any other electronic process), except for official purposes, and only by personnel who have been authorized by the system administrator.

10. BWCs should not be used to record statements intended solely for civil liability purposes unless there is full consent from the person being recorded.

E. Review and Use of Recordings

1. Officers should review recordings to assist with their investigation, prior to the completion of their report. Recorded statements shall be summarized and documented within the narrative of the applicable report.

2. Critical Incidents – The Davis Police Department acknowledges that video recordings taken during critical incidents do not necessarily reflect the full extent of the nature of the event; or the experience, analysis, training, threat assessment, or state of mind of the individual officers(s) in a given incident. Moreover, recordings, especially video, have limitations, and may depict events differently than as honestly recalled by the involved officer(s). Specifically, it is understood that recording devices may capture information that may not have been heard or observed by the involved officers, and that officers may see and hear things not captured by recording devices.

   • For the purposes of this policy, critical incidents include:
     o Officer-involved shootings, regardless of whether a person was hit by gunfire;
     o A traffic collision involving death or serious bodily injury to another person;
     o A use of force resulting in death or serious bodily injury to another person; or
o All deaths while an arrestee/detainee is in the custodial care of the Department unless there is no preliminary evidence of any of the following: misconduct, a use of force, or an act committed by an arrestee/detainee that appears intended to cause injury or death.

- Officers involved in critical incidents should notify the responding supervisor of any related recordings. In the event a critical incident is recorded, and immediate retrieval of a recording is required, a supervisor shall secure the recording device as soon as possible and maintain the chain of custody. The supervisor or manager charged with coordinating the criminal investigation of the case shall coordinate the download or electronic transfer of the file, minimizing those involved with the chain of custody.

- Officers, either as subjects or witness, who are involved in any critical incident will be permitted to review recordings after providing a statement or making a written report, if needed. In such cases where the involved officer(s) will view a video recording of the incident, they shall be provided the following admonishment:

  “In this case, there is video evidence that you will have an opportunity to view after you have given your initial statement. Video evidence has limitations and may depict the events differently than you recall, and may not depict all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The “frame rate” of video may limit the camera’s ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two dimensional medium and may not capture depth, distance, or positional orientation as well as the human eye. Remember, video evidence is intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident.”

F. Reviewing and Media Duplication

1. Officers will have review access to recorded media downloaded from BWC’s. Officers are expected to view their videos daily to ensure that their equipment is functioning correctly.

2. The Property & Evidence Specialist will have review and copying access rights for all recordings. The access will be used for the express purpose of copying recordings for evidence.

3. Supervisors/managers will have review access rights for training, administrative purposes, and evidentiary purposes.

4. The release of video captured by a BWC to any third party will be processed in a manner consistent with applicable departmental policy, law and current discovery requests. When criminal charges are being sought, all related recordings will be provided to the District Attorney’s Office.

5. The digitally recorded media and all recorded images are the property of the Davis Police Department. Dissemination outside the agency is strictly prohibited without specific authorization of the Police Chief or their designee, except as otherwise provided for under Policy & Procedure 4.13-A, Release of Video Evidence, which requires the release of certain video evidence.
G. Supervisor Responsibilities

Supervisors with BWC-equipped officers under their command shall:

1. Ensure that officers under their command have completed the required Department BWC training and are familiar with applicable policies and procedures;
2. Conduct periodic inspections of officers assigned BWC equipment and ensure that the BWCs are properly affixed to officers’ uniforms and fully/properly operable;
3. Ensure officers upload all BWC recordings at the end of their shifts;
4. Ensure officers tag accidental/inadvertent/unnecessary BWC recordings – recordings made in error; and
5. Review relevant BWC recordings prior to submitting any reports.

H. Use in Training/Incident Debriefs

Use of any video for training purposes requires approval of the Police Chief or their designee.

I. System Administrator

The system administrator is the manager overseeing Property & Evidence. The system administrator has oversight responsibilities including, but not limited to, the following:

- Ensuring recordings of evidentiary value are secure and retained according to the Department’s retention schedule;
- Ensuring all other files are maintained in accordance with the Department’s retention schedule;
- Conducting periodic, random audits to ensure the BWC system is operating properly and the camera is being utilized in accordance with this Policy & Procedure;
- System evaluation;
- Assessment and recommendations for modification of policies, procedures and practices associated with video recording;
- Training; and
- Coordination with IS regarding system related issues.

J. Request for Deletion of Accidental Recording

In the event of an accidental or sensitive personal recording using a BWC, where the resulting recording is of no investigative or evidentiary value, the recording employee may request that the file be deleted by submitting an email request to the Office of the Police Chief. The administrator will review the file and recommend approval or denial of the request. In cases where the administrator denies the request to delete, an appeal may be submitted to the Police Chief for deletion authorization. In all cases of deletion requests, a determination should be made within 7 calendar days.

K. Media Retention

Pursuant to California Government Code Section 34090.6(a), “…the head of a department of a city or city and county, after one year, may destroy recordings of routine video monitoring…This destruction shall be approved by the legislative body and the written consent of the agency attorney shall be obtained. In the event that the recordings are evidence in any claim filed, or any pending litigation, they shall be preserved until that pending action/litigation is resolved.”
It is the policy of the Davis Police Department to maintain recorded media for the minimum one year period prescribed by law. The retention period may be extended if the audio/video recording is known to have evidentiary value.

Darren Pytel
Police Chief
8/15

Revised: 4/18, changes to expectations
5/18, critical incident protocol amended
8/18, slight change as required by City Council
Reviewed 3/16, 08/17, 12/17, 05/19