

Fresno Police Department Policy Manual

Body Worn Video Cameras

450.1 POLICY

Officers who have been issued the AXON body worn video camera system shall wear it at all times the officer may become involved in an enforcement situation.

450.1.1 PURPOSE AND SCOPE

The Fresno Police Department recognizes that video recording of contacts between Department personnel and the public provides an objective record of these events and that the use of a recording system complements field personnel in the performance of their duties by providing a video record of enforcement and investigative field contacts which can enhance criminal prosecutions and limit civil liability. A video recording of an event or contact also enables the delivery of timely, relevant and appropriate training to maximize safety for FPD personnel and improve the delivery of police services to the community. While recordings obtained from video recorders provide an objective record of events, it is understood that video recordings do not necessarily reflect the experience or state of mind of the individual member(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved member. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved member and that the involved member may see and hear information that may not be captured on video.

This policy establishes guidelines for Department members using body worn cameras and the preservation of related digital evidence.

450.2 TERMINOLOGY

- AXON Flex Controller - Enables control of the AXON camera through simple commands to place the camera in the various operational modes;
- AXON Mobile Application – A mobile application installed on Department issued tablets that allow officers to view, but not alter, video recordings captured by the AXON camera. The application also allows officers to attach meta-data such as a video title, incident case number and a video retention category to the video file;
- Evidence Transfer Manager (ETM) - A docking station which simultaneously recharges the AXON Controller and uploads all data captured on the AXON Camera to Evidence.com;
- Normal (Buffering) Mode - The mode of operation in which the AXON camera continuously loops video without an audio component for 30 seconds;
- Event Mode - The mode of operation in which the AXON camera captures the buffered video and is actively recording both audio and video. When the AXON is switched to event mode, it will automatically record the previous 30 seconds of video (without audio);
- AXON System Administrator (IA Commander) – Oversees and manages administrative issues related to AXON camera systems;
- AXON System Coordinator (appointed by Chief of Police) – Responsible for video camera equipment, video storage, and training related to Evidence.com accounts and AXON cameras.

450.3 VIDEO RECORDING

The Fresno Police Department recognizes that video and audio recording of contacts between Department personnel and the public provides an objective record of these events and that the use of a recording system complements field personnel in the performance of their duties by providing a video record of enforcement and investigative field contacts which can enhance criminal prosecutions and limit civil liability. An audio/video recording of any event or contact also enables the delivery of timely, relevant and appropriate training to maximize safety for FPD personnel and improve the delivery of police services to the community.

While recordings obtained from video recorders provide an objective record of events, it is understood that video recordings do not necessarily reflect the experience or state of mind of the individual member(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved member. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved member and that the involved member may see and hear information that may not be captured on video.

All video recordings made while working as an employee of the Fresno Police Department in any capacity are property of the Department and subject to review by the Department and its agents. Personally owned video recording devices are prohibited.

450.4 GUIDELINES FOR CAMERA ACTIVATION – Officers shall record interactions including, but not limited to, the following:

- (a) Arrests and detentions, or situations where an officer reasonably believes they will effect an arrest or detention (to include traffic stops and consensual encounters made with the intent to develop reasonable suspicion to detain);
- (b) Officers assisting in an arrest or detention situation;
- (c) Confrontational interactions with citizens;
- (d) Vehicle and foot pursuits;
- (e) Forced entries, search warrants and warrantless searches (including vehicles);
 - 1. When entry is made with or without a warrant, all officers should activate their cameras prior to making entry and continue recording until the scene has been secured. Once the location is secure, and no other circumstances warrant recording, officers may deactivate their cameras.
- (f) Suspect interrogations (including Miranda advisement) and generally, interviews of victims and witnesses.

Officers shall activate their camera system as soon as practical upon encountering the above types of events. When an officer is dispatched to a zero or one priority call, they should activate their camera upon arrival before exiting their vehicle. When an officer is unable to activate their camera at the beginning of the event or contact and a case number is drawn, they shall document the reason in their police report. The documentation should also explain the reason the camera was activated at the time it was.

At no time should an officer jeopardize his/her safety, or the safety of any other officer, in order to activate a recording device. Officers may use discretion when deciding whether or not to advise a citizen he or she is being recorded. Generally, officers should not cease recording solely based on the request or demand of a citizen (refer to section 450.14 below).

450.5 INFORMAL COMMUNITY INTERACTIONS (Public Encounters) – Informal community interactions differ from “consensual encounters” officers may make in an effort to develop reasonable suspicion to detain or probable cause for arrest. To strengthen relationships between police and citizens, officers may use discretion regarding the recording of informal, non-enforcement related interactions with members of the community. In the event a public encounter becomes adversarial, officers should activate their recorders without compromising their safety or the safety of others.

450.6 VICTIMS AND WITNESSES – Officers should generally record interviews of crime victims and witnesses. Officers have no obligation to advise a victim or witness that he or she is being recorded, but may do so at their discretion.

When a victim or witness requests they not be recorded, officers may consider their request (See section 450.18 for provisions of Penal Code §632). 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 the camera off. When an officer is already recording, he/she shall record their explanation for turning the camera off prior to doing so.

- Witnesses - In the event a crime witness or a member of the community wishes to report or discuss criminal activity anonymously, officers have the discretion to not record.
- Victims - Officers should record interviews of crime victims, unless otherwise requested by the victim. Upon request by the victim, officers have the discretion to not record the interview. Officers may offer to avert their camera to capture only audio during the interview, when doing so would facilitate obtaining the victim's recorded statement.
 - Domestic Violence Victims – Officers should record interviews of domestic violence victims to facilitate future prosecution efforts and discourage later recanting of statements. Officers should also record interviews with children who witness domestic violence.
 - Child Abuse and Sexual Assault Victims – Officers should *make every effort to* record interviews of *all* victims *regardless of age*.

Video recording of individuals who are picketing, engaged in peaceful protest or First Amendment protected speech will be avoided unless the officer believes a violation of criminal law is occurring, may occur, or if the officer interacts with a participant or third party to the event.

450.7 PROHIBITED RECORDINGS

AXON Cameras shall not be used to record non-work related personal activity. AXON recorders will not be activated in places where a reasonable expectation of privacy exists, such as workplace locker rooms, dressing rooms, or restrooms. No type of recording device may be intentionally activated to record the conversations of fellow employees or superiors without their knowledge. In addition:

- Officers should not record undercover officers or confidential informants, absent supervisor approval under limited circumstances.
- When possible, officers should avoid recording exposed private areas of the body.
- Officers shall not record patients during any medical or psychological evaluation or treatment by a health professional.
- While inside a medical or psychological facility, officers should not record persons other than the intended subject.

Recordings shall not be used for the purpose of ridiculing or embarrassing any employee.

Employees shall not obtain or convert any recordings obtained during the course and scope of their duties for personal use. The following are specifically prohibited:

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

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

450.8 OPERATING PROCEDURES

When issuing cameras, priority will be given to uniform patrol officers and patrol related units such as SRO's, and Tactical Units. Officers who have been issued the AXON camera shall wear it at all times the officer may become involved in an enforcement situation. Officers shall position the camera to facilitate optimum recording field of view. Cameras may only be worn on the shoulder, head or collar with Department authorized mounting systems. Camera mounts have a ratcheting function and can move out of place. Officers should check the position of the camera mount as needed during each shift to ensure the camera position is maintained to facilitate optimum recording.

Only officers who have completed approved training will be allowed to operate AXON cameras. Officers will inspect the AXON system for any physical damage and to ensure the device is in working order at

the beginning of their shift. Any malfunctions, missing equipment or damage shall be immediately reported to their supervisor and via email to the body camera unit before the end of shift.

Officers shall log into their Evidence.com accounts on a weekly basis and run a search of their own videos to check for any needed ID's and Categories. It is the responsibility of the officer to ensure their videos are properly identified so they can be located for submission to the District Attorney's Office or other authorized search.

If the AXON camera is in use during an enforcement situation and it becomes necessary to discuss issues or concerns with another officer or supervisor in private, the AXON 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 AXON camera recording may resume.

In general, once the AXON recorder is activated, officers should continue recording until the incident has concluded, recording is no longer relevant, or there is no apparent value in continuing to record.

Should an arrestee indicate they want to complain about an officers actions, claim injury or become confrontational during transport, during processing or booking, officers shall reactivate their camera, if they are able to do so without compromising their safety or the safety of others. When an officer resumes recording under these circumstances, the recorder should remain on until the officer no longer has contact with the subject.

450.9 DOCUMENTATION OF RECORDINGS

Recordings uploaded the system will be individually identified by an **ID** (mandatory), **Category** (mandatory), and **Title** (optional). This identifying information may be entered utilizing a Department issued tablet or desktop computer.

ID Description Box

In the following order, a case number, citation number or event number, when issued, shall be used to identify the recording by placing this information in the **ID** description box. When the previous three do not apply, the officer may utilize a custom ID.

Note: Within the system, ID refers to the incident related number, not the officers badge number.

Category

In addition to attaching an event or case number to recordings, officers must assign a video **Category** to facilitate proper retention of the video. Categories are selected based on the statutory retention requirements for the incident, and range from one year to an indefinite period of time.

Title Description Box

Officers may provide a **Title** to facilitate simplified searching of files [i.e. – by location (First and Tulare) or by subject (arrest of suspect John Doe), etc.].

Note: When no title is entered, the system automatically generates the title as the date and time of the recording.

Documentation

Officers shall check the appropriate box on the RPW "case factor" page to indicate a recording related to the incident was uploaded to the system. Officers should also document in the disposition section of their written reports what that a recording was made. AXON recordings will not be used in lieu of Crime Scene Investigation Bureau photographic or video-graphic documentation.

450.10 REVIEW AND USE OF RECORDINGS

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. Only official Department devices should be used to review AXON recordings.

Once uploaded to the system, sworn personnel may view their own recordings by logging onto Evidence.com and documenting the reason for access in the "NOTES" section (e.g. noting specific time markers, reviewing for court, reviewing for report, etc.).

450.11 CRITICAL INCIDENTS

The Fresno Police Department acknowledges that recordings taken during critical incidents obtained from video recorders 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 officer(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved officer. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved officer and that officers may see and hear events that are not captured by the camera.

Officers involved in critical incidents shall 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 chain of custody. The detectives investigating the case shall coordinate the download or electronic transfer, minimizing those involved with the chain of custody.

Officers, either as a subject or witness, who are involved in any significant use of force incident or collision causing injuries will be permitted to review their recordings prior to providing a statement or written report.

450.12 CIRCUMSTANCES FOR ADMINISTRATIVE REVIEW

AXON recordings will be administratively reviewed and may be used during investigations related to use of force, officer involved shootings, complaints and pursuits.

When recordings are administratively reviewed, use of profanity by officers will be considered within the overall context of the incident, as well as accepted training and practices. However, officers remain prohibited from engaging in discourteous, disrespectful or discriminatory treatment of the public per Policy 341- Performance Standards.

Use in Training

Any video used for official training purposes requires approval by the Chief or designee. In no event will video recordings be used for training, or be otherwise used or shown, if it would result in ridicule or embarrassment of an officer(s), except when required as part of a formal investigation or legal proceeding. In the event that videos are intended to be used for training purposes, the involved officer(s) will first be consulted. If he/she objects to the use of the video, such objection shall be submitted to the Training Section Commander. The Training Section Commander shall weigh the value of the video for training against the officer(s) objections and basis for the objection. When the Training Section Commander refuses to grant the request of the involved officer(s), the matter shall be heard by the Chief of Police or designee, prior to utilizing the video.

Field Debriefings

Supervisors intending to use a recording as part of an informal debriefing or critique session shall first consult with the recorded officer(s). When the officer(s) objects to use of the recording under these circumstances, it will not be used or shown.

450.13 REQUEST FOR DELETION OF ACCIDENTAL AXON RECORDING

In the event of an accidental or sensitive personal recording using the AXON system, 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 Department's body camera unit coordinator. The system coordinator will send authorized deletion requests to the system administrator. 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 Chief of Police, or designee, for deletion authorization. In all cases of deletion requests, a determination should be made

within 7 calendar days. If approved, the request is then forwarded to the equipment manufacturer to be completed, as the department does not have the capability to delete videos.

450.14 UPLOADING TO EVIDENCE.COM

At the end of their shift, officers shall place the AXON Flex Camera and AXON Flex Controller into the designated docking station for charging and uploading of recordings. Officers shall not remove the camera and related equipment from the docking station until the video files are completely uploaded and battery fully charged.

Exception: K9 units and Traffic Bureau units who ride a motorcycle to a log off location other than a substation are not required to place their camera and controller into a docking station for charging and uploading prior to the end of their shift. When possible, members should upload their evidence when report writing and during briefing. Videos recorded that are infractions or misdemeanors may be retained on the camera and uploaded during the next shift. This exception does not apply to felony arrests or members going on vacation or extended days off. Video(s) related to any felony arrests must be uploaded at or before the end of the same work shift.

450.15 SYSTEM ADMINISTRATOR AND COORDINATOR

The system administrator will be the Internal Affairs Commander. A sergeant will be assigned to report to the system administrator as the system coordinator. The system administrator and coordinator have oversight responsibilities including, but not limited to, the following:

- Ensure the system is operational and functioning properly;
- Ensure files are maintained in accordance with the Department's retention schedule;
- Operation and user administration of the AXON system and Evidence.com;
- Ongoing System evaluation;
- Ongoing review of related Department policies and procedures;
- Assessment and recommendations for modification of policies, procedures and practices associated with video recording;
- Training; and
- Coordination with IT regarding system related issues.

On an annual basis, or as needed, the system administrator and coordinator will meet with FPOA leadership, and the Chief of Police or designee, to evaluate the effectiveness of Department recording procedures and equipment.

450.16 RELEASE OF OFFICIAL VIDEO TO THIRD PARTIES

Video captured by the AXON camera is evidence. The release of video captured by the AXON camera to any third party will be processed in a manner consistent with Penal Code 450.15, Penal Code 841.5, Government Code 6275-6276.48, applicable law, current discovery request practices and the provisions of Policy §810. In general, video captured by the AXON camera shall not be released to third parties unless expressly authorized by the Chief of Police, or designee. In rare circumstances, the Chief of Police may elect to release video when the public interest served by the disclosure of the video outweighs the public interest served by the non-disclosure of the video.

When considering whether disclosure is warranted, the Chief of Police should also consider the privacy rights and impacts of the disclosure on the involved individual member(s). Should the Chief of Police determine that disclosure is necessary, he/she should provide as much advance notice as practical to those involved member(s).

When criminal charges are being sought in a case, all related recordings will be provided to the District Attorney's (DA's) office.

450.17 AUDIT RESPONSIBILITIES

The system coordinator will conduct periodic, random audits to ensure the AXON camera system is operating properly and the camera is being utilized in accordance with this policy. An FPOA representative may be appointed to monitor such random audits.

Minor infractions regarding the use of AXON cameras and related equipment should be viewed as training opportunities rather than a means to take disciplinary action.

450.18 KNOWLEDGE OF RECORDING

PC §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 PC §633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation.

Any sworn member may surreptitiously record conversations during the normal course of duty for a criminal investigation in which the sworn member reasonably believes that such a recording will be beneficial to the investigation.

- (a) Any sworn member 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 sworn members conducted solely for administrative purposes.
- (b) Any individual contacted by a sworn Department member wearing a conspicuously mounted recording device will be deemed to have knowledge that such a contact is being recorded.

450.19 DETECTIVE RESPONSIBILITIES

Detectives will be provided an Evidence.com account so that they may access recordings related to their specific investigations. Detective responsibilities include, but are not limited to the following:

- When criminal charges are being filed in a case and related AXON recording(s) exist, the follow-up detective should review the recording(s) prior to providing them to the DA's office.
 - All recordings related to a case must be submitted to the DA's office for filing, regardless of apparent relevance.
- When a detective determines the recording is likely to have evidentiary value to either the prosecution or defense in a specific case, he/she shall ensure the recording is properly classified for retention in compliance with procedure.
- The detective will ensure the recording(s) are submitted to the DA's office.
- When the recording is of no evidentiary value, it shall be retained pursuant to the Department's video retention schedule.
- When the status of a case changes, detectives will review and extend retention categories as needed to match retention required by the court.
- When reviewing videos, make an entry in the NOTES section documenting the reason for his/her review.
- When an officer is directly involved in a critical incident, a detective or assigned officer will secure the officer's camera from the supervisor on scene, take it to a docking location, and upload the video from the camera. They will write a supplemental report documenting their actions. Once a camera has been uploaded, it retains no information and is then returned to the officer.

450.20 SWAT Operations

The purpose of the body worn camera (BWC) on a SWAT call is to record and document the contact and general enforcement action(s) with the suspect(s). Tactical operations involving SWAT are unique and present circumstances that can endure over extended periods of time that preclude continuous recording. Therefore, SWAT personnel shall record interactions including, but not limited to, the following when responding to a tactical SWAT incident:

- (a) Arrests and detentions, or situations where an officer reasonably believes they will effect an arrest or detention;*

- (b) *Officers assisting in an arrest or detention situation;*
- (c) *Confrontational interactions with citizens;*
- (d) *Vehicle and foot pursuits;*
- (e) *Open area searches;*
- (f) *Forced entries, search warrants and warrantless searches (including vehicles);*
 - 1. *When entry is made with or without a warrant, all officers should activate their cameras prior to making entry and continue recording until the scene has been secured. Once the location is secure, and no other circumstances warrant recording, officers may deactivate their cameras.*
- (g) *Suspect interrogations (including Miranda advisement) and generally, interviews of victims and witnesses.*

SWAT Team members who are participating in an active tactical event should be mindful of recording potentially sensitive situations. Members should consider not using BWC's to record the below limited situations:

- *The deployment of specialized tools or tactics that do not pertain to members coming into contact with the suspect(s) and taking enforcement action should not be recorded on BWC; or*
- *Discussion by team members during an incident regarding planning, specific tactics, placement of resources, use of specialized tools and equipment and strategies to be used generally should not be recorded.*

The SWAT commander in charge of the operation may direct recordings to occur in any instance where they deem it necessary for the benefit of the Department and for documentation purposes.