

Body Worn Camera

451.1 PURPOSE AND SCOPE

The San Francisco Bay Area Rapid Transit District Police Department (BART) is providing each of its sergeants, officers, and fare inspectors with a body worn camera for use while on-duty. Lieutenants will be issued body worn cameras and are required to wear them when they are expecting to take enforcement action while in uniform. The body worn camera is designed to record both video and audio activity of members during the course of their official police duties. The body worn camera is intended to assist personnel in the performance of their duties by providing an objective, unbiased video and audio record of a contact and/or incident.

The use of the body worn camera provides documentary evidence for criminal investigations, civil litigation, and allegations of officer misconduct. Such evidence shall be maintained by the Police Department as an investigatory record if it supports a criminal investigation based on reason to believe the subject of the investigation is or may be involved in criminal conduct, or for purposes of an administrative investigation on the conduct of a member(s) of the Police Department.

Personnel shall utilize the body worn camera in accordance with the provision of this Policy in order to maximize the effectiveness of the device, enhance transparency, and ensure the integrity of evidence.

451.2 DEFINITIONS

- (a) "AXON camera" This refers to the camera system that captures audio and video signals that is individually worn by personnel and that includes at a minimum a recorder, microphone, and paired monitoring device.
- (b) "Audio Recording" is the electronic recording of sound. "Evidence.com" is the online web-based digital media storage facility. The virtual warehouse stores digitally-encrypted data (photographs, audio and video recordings) in a highly secure environment. The digital recordings are accessible to authorized personnel based upon a security clearance and maintain an audit trail of user activity.
- (c) "Evidence Transfer Manager" (ETM) is a docking station that simultaneously recharges the AXON camera and uploads all data captured from the camera's point of view during officer's shift to bartpd.evidence.com. The ETM ensures that evidence handling is secured and cannot be altered.
- (d) The AXON camera manages the video compression and storage and is capable of playback via a Bluetooth paired smart device. The AXON camera ensures that evidence handling is secured and cannot be altered. Once plugged into the docking station, the AXON camera will upload digitally-encrypted data through the Evidence Transfer Manager to bartpd.evidence.com.
- (e) "AXON Technician" An employee of the department assigned by the system administrator that will assign, oversees, and tracks Department equipment. The AXON Technician shall oversee needed repairs or replacement of the AXON cameras and Evidence Transfer Manager equipment through AXON representatives.

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- (f) "System Administrator" The Administrative Services Supervisor will be the bartpd.evidence.com system administrator with full access to user rights who controls passwords, coordinates with the AXON Technician, and acts as liaison with AXON representatives.
- (g) "Video Recording" is the electronic recording of visual images with or without audio component.
- (h) "Impound" is the process by which video and audio files are uploaded to Evidence.com by docking the AXON camera to the Evidence Transfer Manager thereby ensuring files are secure and unable to be altered.

451.2.1 CATEGORIES AND RETENTION PERIODS

The BART Police Department has categories to tag and retain our videos in Evidence.com, which can be updated at any time by BPD. The retention period for each category will be determined by the records retention schedule. It should be noted that retention times can be extended at any time by a Supervisor, Internal Affairs, Evidence Specialist, BPD System Administrator for evidence.com, or by the Chief of Police or his/her designee.

All videos must be promptly categorized with any of the following categories as applicable;

- GOA/UTL or No Merit – Used for all evidence when the suspect/victims are gone and unable to be located or when there is no merit to any criminal activity.
- Infraction Crime – Used for all evidence of crimes involving only infraction violations.
- Misdemeanor Crime – Used for all misdemeanor crimes (do not use if additional crimes are felony)
- Felony Crime – Used for all felony crimes.
- Detention – Used for detentions where the involved person(s) are released without any further enforcement.
- Proof of Payment – Used only by Fare Inspectors when conducting proof of payment fare enforcement.
- Welfare Check/Sick Person – Used for all welfare checks and/or sick persons with no further action taken (i.e. no arrest or citation).
- 5150 W&I – Used for emergency psychiatric evaluations with no criminal enforcement/arrest.
- Injured Person – Used for all injured persons with no criminal enforcement.
- Non-Criminal – Used for all non-criminal activities not captured under other categories.
- Consensual Contact – Used to document all consensual contacts that don't involve a detention or arrest.
- Adult Arrest – Used for all videos when an adult is arrested (includes cite/release and bookings).
- Juvenile Arrest – Used for all videos when a juvenile is arrested (includes cite/release and bookings).

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- Outside Agency Assist – Used for all incidents handled by another agency or when acting as a cover officer for an outside agency (no enforcement action taken by our agency).
- Homicide/Death/Sex Crime – Used for all homicides, deaths, and/or sex crimes.
- Testing – Used only for test videos.
- Accidental – Used for accidental recordings (notification required pursuant to Lexipol Policy 451).
- Use-of-Force – Category used by supervisors for all evidence related to a supervisor's use of force investigation and placed on all videos that capture the actual use of force (this category should not be placed on all videos associated with a case).
- OIS – Used for all evidence related to an officer involved shooting or in-custody death.
- False Signal Activation - Use for all false signal activations.
- Collision - Used for internal District and Police Vehicle collisions.

Personnel should use all applicable categories that apply to the overall incident.

451.3 UNIFORMED PERSONNEL RESPONSIBILITIES

Prior to going into service, each uniformed employee equipped with a Department issued AXON camera will be responsible for making sure that the AXON camera is in good working order. The AXON camera shall be conspicuously placed on the employee's person and worn in such a way as to provide an unobstructed camera view of employee/citizen contacts. The camera shall be considered mounted correctly if it is mounted using an AXON approved mounting accessory.

Members of the Department that are assigned an AXON camera shall receive mobile video training prior to deployment of the device in an operational setting. At this training, each employee will be provided a standard checklist of steps they are required to complete in order to ensure their AXON camera and mounting systems are in good working order.

451.4 NON-UNIFORMED OFFICER RESPONSIBILITIES

Any officer assigned to a non-uniformed position may carry a Department-issued AXON camera at any time the officer believes that such a device may be utilized in order to assist the officer in the performance of their duties by providing an objective, unbiased video and audio record of a contact and/or incident. However, whenever a non-uniformed officer is working a uniformed patrol assignment he/she shall wear a Department - issued AXON camera in accordance with this policy.

451.5 ACTIVATION OF THE VIDEO/AUDIO RECORDER

Penal Code Section 632 prohibits any individual from surreptitiously recording any conversation (confidential communication) in which any party to the conversation has a reasonable belief that the conversation is private or confidential. This excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that

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the communication may be overheard or recorded. However Penal Code Section 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation as follows:

- (a) No member of the Department may surreptitiously record a contact with or conversation of any other member of this Department without the expressed knowledge and consent of all parties present, including the member whose acts or conversation are being recorded. Nothing in this Section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code Section 3303(g).
- (b) Any member of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation:
 - 1. For the purpose of this Policy, 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 employees conducted solely for administrative purposes.
 - 2. For the purpose of this Policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted body worn camera will have knowledge that such a contact is being recorded. This subsection shall not apply to contact between a member of the Department wearing a conspicuously mounted body worn camera and other member(s) of the Department or employees of the BART Office of the Independent Police Auditor. For purposes of this policy, contact between members of this Department is governed by section 451.5(a), and 451.5(b) (1).
- (c) All on-scene personnel (inclusive of all initiating and witness personnel) equipped with a body worn camera shall activate their camera prior to making contact with individuals in any of the following circumstances:
 - 1. Any law enforcement contact including:
 - (a) detentions (as outlined in Policy Section 322.3.1),
 - (b) vehicle stops
 - (c) walking stops
 - (d) ejection of a subject from a BART station or train (no immediate voluntary compliance)
 - (e) probation and parole searches
 - (f) service of a search or arrest warrant
 - (g) any contact with a subject suspected for criminal behavior
 - (h) processing, transporting, and booking of all prisoners
 - 2. Any contact with a subject for a suspicious person

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3. Officers are encouraged to activate their body worn camera on consensual contacts (as outlined in Policy section 322.3) and officers are required to activate their body worn camera anytime a consensual contact becomes a detention.
 4. Personnel who activate their body-worn camera after the initiation of a law enforcement contact shall not be subject to discipline if the audio and video recordings of the entirety of the contact are captured during the buffering period. In such instances, the employee shall be reminded by a supervisor of the activation requirements with the expectation that future activations be timely.
- (d) Members of the Department are expected to activate their body worn camera any time they reasonably believe that a recording of an on-duty contact with a member of the public may be of future benefit to the Department.
1. At no time should an officer jeopardize his/her safety or the safety of another in order to activate their body worn camera.
 2. Members of the Department are expressly prohibited from utilizing Department recorders and recorded media for personal use.
 3. Members of the Department will not make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video camera) to record media from bartpd.evidence.com or the AXON camera unit. Nothing in this policy shall be construed as limiting an employee's right to carry and use a personal device such as a smart-phone, however officers shall not carry or use another mobile video recorder in addition to the District issued body worn camera without express approval of the Chief of Police.
 4. When an equipment malfunction is identified as a reason for a non-activation or late activation, a supervisor must confirm whether the member performed the required equipment test prior to deployment.
- (e) Members of the Department shall activate their body worn camera to document the weighing and packaging of narcotics, and when counting currency for safekeeping or evidence.
- (f) Members of the department are expected to activate their body worn camera when conducting inventory of personal property for safekeeping or evidence. A visual documentation of these items will help protect the Department and its personnel in instances where a subject, detainee, or arrestee reports missing items.

451.6 AXON CAMERA OPERATING PROCEDURES

Prior to going into service each employee shall perform an inspection and record a test video, to ensure that his/her AXON camera is operational. If problems are encountered with any component of the system, the AXON camera equipment will not be used. The employee to whom the problematic equipment is assigned shall report the problem to their immediate supervisor upon becoming aware of it. A spare AXON camera shall be issued to that employee through a supervisor prior to the employee going into service. The employee and supervisor shall inform the AXON Technician via email of problems that are occurring with the problem unit as well as what spare

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AXON camera was assigned to the employee (number of AXON camera unit). The problematic AXON camera shall be routed to the AXON Technician to diagnose and shall reassign a new unit to the affected employee. Any employee utilizing a body worn camera not issued to them must notify their on-duty supervisor prior to going into service with the borrowed camera. The notification will be made verbally and through email to the supervisor. Supervisors will retain the email until they reassign any videos recorded by the employee using the borrowed camera to them within the evidence.com system.

- (a) The employee shall report the loss or theft of an AXON camera to their immediate supervisor. The employee shall prepare a memo to be routed via the chain of command to their Bureau Deputy Chief documenting the circumstances surrounding the loss or theft of the device. The AXON technician should be informed via email from the immediate supervisor of the loss. A spare AXON camera shall be issued to the employee through a supervisor prior to going back into service. The employee and supervisor shall inform the AXON Technician via email of what spare was issued (number of AXON camera unit). The AXON Technician shall assign a new unit to the employee as soon as possible after receiving notification of the loss or theft of the camera.
- (b) Once the AXON camera is activated pursuant to Section 451.5 of this policy, it shall remain on until the event giving rise to the activation has reached a conclusion and/or the employee leaves the scene of the event, whichever occurs first. Officers shall record further interaction with suspects, including searching, processing, transporting, and booking. Any exceptions will be documented in the police report and reported to a supervisor. When the employee reasonably believes the event giving rise to the activation is over, he/she may deactivate the AXON camera from the recording mode. If the event giving rise to the activation resumes following the employee's termination of the AXON camera recording the employee shall reactivate their AXON camera.
- (c) When the AXON camera is used in any incident, investigation, or during a traffic stop, this fact will be documented on any relevant citation and/or report prepared regarding the incident. Conversely, when the AXON camera is not used in any incident, investigation, or during a traffic stop, the reason for non-use will be documented on any relevant citation and/or report prepared regarding the incident. Conversely, whenever the AXON camera is not activated as required by Section 451.5 of this policy, the reason for the lack of activation will be documented on the relevant citation and/or police report prepared regarding the event that otherwise would have given rise to activation. For the purposes of capturing the recording or lack of recording in the police report it should be mentioned at the beginning of the narrative summary.
- (d) Department personnel shall not intentionally erase, alter, reuse, modify or tamper with audio-video recordings, nor shall they attempt to erase, alter, reuse, modify or tamper with audio-video recordings.
- (e) If the AXON camera is accidentally activated, the employee shall inform his or her immediate supervisor requesting the recording be deleted. The request shall be sent via email and routed to the AXON Administrator. Once the video has been reviewed by the supervisor and administrator and deemed to have no evidentiary value the video will be categorized as "ACCIDENTAL" and retained for thirty (30) days prior to

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deletion. Employees should note accidental recordings by labeling them using their Department issued device prior to download.

- (f) Once an employee has completed a recordable encounter he or she shall label the recording using their Department issued device. The officers shall provide the event number, category, and title of the video. This information will be uploaded along with the video once docked into the ETM at the end of shift. Supervisory personnel shall conduct regular audits to determine whether recordings are labeled in compliance with this section.
 - 1. **ID Field:** Employees will enter the applicable case number or incident number. If no case number or incident number is assigned to an incident, or for accidental and test videos, employees will enter 0000-0000.
 - 2. **Title Field:** Employees will begin by entering first initial and last name followed by their BART employee identification number. Then the employee will enter "Part (number)" for each subsequent video, with "Part 1" being the first video of the incident. Employees will then add a short description of what is captured in the video file.
- (g) Employees working overtime assignments outside of their direct report locations will ensure they bring their issued AXON camera to the location of their overtime assignment.
- (h) When an employee discovers that his/her AXON camera battery is becoming depleted (as evidenced by a yellow indicator light and/or a sounding tone when recording), the employee shall immediately exchange the camera for a spare located in the Integrated Security Response Center (ISRC). If the employee will be delayed in exchanging the camera, or if the employee is unable to locate a charged spare Axon camera, the employee shall notify a supervisor and the supervisor will locate a charged spare Axon camera for the employee's use as soon as possible.
- (i) While on-duty, personnel equipped with an AXON body worn camera shall keep the camera turned on and operating in buffering mode except for situations where policy, legal requirements, or privacy concerns prohibit recording. Locations where body worn cameras should not be operating in buffering mode include, but are not limited to, inside Department locker rooms, hospital emergency rooms and other medical facilities when HIPAA concerns are involved, tactical planning situations at a critical incident, and detention facilities that prohibit recording. Officers shall not power-cycle the AXON camera to erase the buffer prior to an enforcement contact unless exigent circumstances resulted in the recording of private information which would not normally be subject to recording. If a recording of an enforcement contact is missing the full 60-second buffer, the reason for the missing buffer shall be documented in a police report.
- (j) Any employee utilizing a body worn camera not issued to them must notify their on-duty supervisor prior to going into service with the borrowed camera. The notification will be made verbally and through email to the supervisor. Supervisors will retain the email until they reassign any videos recorded by the employee using the borrowed camera, to that employee within the evidence.com system.

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451.7 AXON CAMERA IMPOUNDING PROCEDURE

To download the videos from their AXON cameras, employees shall place the AXON camera into an assigned open slot on the Evidence Transfer Manager (docking station). This will allow the data to be transferred from the AXON camera, via the docking station, to bartpd.evidence.com. The data is considered impounded at this point and the AXON camera is cleared of existing data.

Employees will ensure all videos capturing arrests, uses of force, and/or any incident deemed necessary by a supervisor, have been downloaded when not leaving their AXON camera in an ETM at the completion of a work shift. Any exceptions to this requirement will only be made in unusual circumstance and with supervisory approval.

451.8 REVIEW OF RECORDED MEDIA

Recorded files may be reviewed in any of the following situations:

- (a) Employees are given access to review his/her recordings when preparing written reports and/or statements relevant to any incident, to help ensure consistency of accounts. Employees must wait for authorization from the Chief of Police, or his or her designee, prior to reviewing video of critical incidents (e.g. Officer Involved Shootings, In-custody Deaths).
- (b) By a supervisor investigating a specific incident, issue, and/or act of officer conduct.
- (c) By any member of the Department who is authorized to participate in an official investigation in the following type of cases only: personnel complaints, administrative investigations, or criminal investigations.
- (d) Pursuant to a lawful process or by members of the District Attorney's office or court personnel otherwise authorized to review evidence in a related case.
- (e) By the BART Independent Police Auditor and/or his/her authorized personnel..
- (f) With the expressed permission of the Chief of Police or authorized designee.
- (g) By the "System Administrators" for the purpose of managing the video evidence, quality assurance, and to categorize, label, provide case numbers to videos when needed.

451.9 MOBILE VIDEO RECORDERS

The Department assigned AXON camera shall be the only mobile video recorder allowed for Department employees while on-duty. Any other mobile video recorder shall only be used with the expressed permission of the Chief of Police.