



**SPECIAL MEETING AGENDA
POLICE OVERSIGHT STANDING COMMITTEE
TUESDAY, JULY 27, 2021 AT 4:00PM**

Pursuant to Governor Gavin Newsom's Executive Order N-29-20,
this meeting will be held as a teleconference/virtual meeting.
Observers may view the meeting livestreamed at <https://www.antiochca.gov/>

In February of 2021, the Antioch City Council convened a special meeting to consider several dimensions of Police Reform. On April 13, 2021, the City Council then established the Police Reform Standing Committee of the Whole City Council, subsequently renamed the Police Oversight Standing Committee.

The City of Antioch Police Oversight Standing Committee is an entity intended to operate on an interim basis prior to the formation of an independent review body. Responsibilities of the Police Oversight Standing Committee are defined by Antioch City Council Resolution No. 2021/67 and are described as follows:

1. To review and recommend modifications to Antioch Police Department policy that integrate community input and expertise.
2. To review and audit on duty police officer complaints and the resolution of said complaints.
3. To review Antioch Police Department use of force policies and provide community updates.
4. To guide the future formation of an Antioch Police Department Civilian Oversight Commission for On Duty Officer Complaints.

Notice of Opportunity to Address the Standing Committee

Members of the public wishing to provide public comment may do so in the following way:

- 1) Prior to 3PM the Day of the Meeting - Written comments may be submitted electronically to the following email address: policeoversight@antiochca.gov. All comments received before 3PM the day of the meeting will be provided to the Police Oversight Standing Committee at the meeting. Please indicate the agenda item and title in your email subject line.
- 2) After 3PM the Day of the Meeting and During the Meeting: Oral comments can be submitted to the Police Reform Oversight Committee during the meeting with advance registration. You may register and attend the webinar by visiting https://us02web.zoom.us/webinar/register/WN_23iPwH1pREaXvSOJqMV8Rg

- You will be asked to enter an email address and a name. Your email address will not be disclosed to the public. After registering, you will receive an email with instructions on how to connect to the meeting.
- When the public comments are announced, click the "raise hand" feature in Zoom. For instructions on using the "raise hand" feature in Zoom, visit: https://www.antiochca.gov/raise_hand.
- When calling into the meeting using the Zoom Webinar telephone number, press *9 on your telephone keypad to “raise your hand”. Please ensure your Zoom client is updated so staff can enable your microphone when it is your turn to speak.

Please be advised that the City cannot guarantee that its network and/or the site will be uninterrupted. To ensure that the Standing Committee receives your comments, you are strongly encouraged to submit your comments in writing in advance of the meeting.

After hearing from the public, the agenda item will be closed. Deliberations will then be limited to members of the Standing Committee.

Notice of Availability of Reports

This agenda is a summary of the discussion items/actions proposed to be taken by the Standing Committee. The Agenda, including Staff Reports, will be posted on the City’s Website. To view the agenda information, please visit <https://www.antiochca.gov/government/agendas-and-minutes/posc/>

CHAIR, Tamisha Torres Walker, Council Member - D1

VICE CHAIR, Lori Ogorchock, Council Member - D3

Lamar A. Thorpe, Mayor

Monica E. Wilson, Mayor Pro Tem, Council Member - D4

Michael Barbanica, Council Member – D2

Ron Bernal, City Manager

Thomas Lloyd Smith, City Attorney

1. ROLL CALL

2. PUBLIC COMMENT ON UNAGENDIZED ITEMS

3. ANTIOCH POLICE DEPARTMENT POLICY NO. 423: BODY-WORN CAMERAS AND POLICY NO. 427: MOBILE VIDEO/AUDIO RECORDER

A. Recommended Action: It is recommended that the Police Oversight Standing Committee:

- Motion to recommend that the City Council approve the Antioch Police Department Body-Worn Camera and Mobile Video Audio Recorder policies.

OR

- Provide direction to staff to revise the Antioch Police Department Body-Worn Camera policy and/or Mobile Video Audio Recorder policy in accordance with the standing committee's instructions and to place them on agenda for the next meeting of the Police Oversight Standing Committee.

4. FUTURE AGENDA TOPICS

A. Recommended Action: Provide direction to staff on future standing committee agenda topics.

5. ADJOURNMENT: *Committee Member will make a motion to adjourn the meeting. A second of the motion is required, and then a majority vote is required to adjourn.*

In accordance with the **Americans with Disabilities Act and California law**, it is the policy of the City of Antioch to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including individuals with disabilities. If you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodation, please contact the ADA Coordinator at the number or email address below at least 72 hours prior to the meeting or when you desire to receive services. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility. The City's ADA Coordinator can be reached at (925) 779-6950 or via e-mail: publicworks@ci.antioch.ca.us.


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STAFF REPORT TO THE POLICE OVERSIGHT STANDING COMMITTEE

DATE: Police Oversight Standing Committee Meeting of July 27, 2021

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Anthony Morefield, Police Captain

APPROVED BY: Tammany Brooks, Chief of Police 

SUBJECT: Antioch Police Department Policy 423: Body-Worn Cameras (BWC) and Policy 427: Mobile Video / Audio Recorder (MVAR)

RECOMMENDED ACTION

It is recommended that the Police Oversight Standing Committee:

- Motion to recommend that the City Council approve the Antioch Police Department Body-Worn Camera and Mobile Video Audio Recorder policies.

OR

- Provide direction to staff to revise the Antioch Police Department Body-Worn Camera policy and/or Mobile Video Audio Recorder policy in accordance with the standing committee's instructions and to place them on agenda for the next meeting of the Police Oversight Standing Committee.

FISCAL IMPACT

There is no fiscal impact in accepting this report.

DISCUSSION

During the Regular Council Meeting on March 9, 2021, the Antioch City Council approved the purchase of Axon BWC and MVAR technology for use by the Antioch Police Department. In a subsequent Council Meeting on April 13, 2021, the City Council established the Police Reform Standing Committee (later renamed the Police Oversight Standing Committee). The standing committee's responsibilities span several areas which include reviewing Antioch Police Department (APD) policies, providing community updates, and soliciting community input on APD policies.

As part of the implementation process for the new BWC and MVAR technologies, the Police Department established a BWC/MVAR Policy [and Implementation] Committee of Sworn Officers and Supervisors along with Records and Dispatch staff. This group met on a regular basis over a period several months and spent hundreds of staff hours researching existing BWC and MVAR policies from across the state. In addition, this committee examined federal and state laws which guide the use of this technology along with reports on industry best practices.

The Police Department contracts with a company called Lexipol which designs (web based) policy manuals and training for law enforcement agencies all over the United States. Lexipol further provides a full library of customizable, state-specific law enforcement policies that are updated in response to new state and federal laws and court decisions. The BWC/MVAR Policy Committee made edits to the Lexipol template BWC and MVAR policies, tailoring specific functionality and workflow to Police Department operational practices, while remaining consistent with federal and state guidance as well as industry best practices.

These policies were presented to the Antioch Police Oversight Standing Committee during a special meeting on July 13, 2021. The Committee did not approve the policies as presented, but instead directed staff to work with Committee Chair Torres-Walker on recommended revisions. Staff met with Committee Chair Torres-Walker on July 20 and July 22, 2021 and was able to identify and make agreed upon changes to both policies. Staff also met and conferred with the Antioch Police Officers Association on July 22, 2021 regarding the proposed changes.

ATTACHMENTS

- A. APD Body-Worn Camera Policy 423 (Draft)
- B. APD Mobile Video Audio Recorder Policy 427 (Draft)

Body-Worn Cameras (BWC)

423.1 PURPOSE AND SCOPE

The Antioch Police Department (APD) recognizes the use of Body-Worn Cameras (BWCs) by its officers conveys a sense of law enforcement legitimacy, accountability, and transparency. The APD believes video and audio recordings from BWCs will serve as a tool to maintain and enhance the community's trust in the Department. The recordings will capture interactions with the public and provide additional means of evidence collection for criminal investigations, administrative investigations, and civil litigation. In addition, BWCs will serve as a valuable training aid for officers.

While BWC recordings can provide an unbiased and objective account of a police contact, there are limitations to BWC video technology. Specifically, there are inherent differences between how human beings see and interpret their surroundings and how BWCs record video. In some cases, an officer may capture information not observed by a BWC just as a BWC may capture information not heard or seen by an officer. Therefore, it is critical to consider BWC footage as one piece of useful information regarding an incident, just as an officer's experience, state of mind, and input gleaned from his or her other senses would be considered useful information. Where these varied sources of information are combined, a more complete picture of an incident can be obtained.

423.1.1 DEFINITIONS

Activation – Triggering the Body-Worn Camera by touch or any other method, which initiates the audio and video recording functions.

Blue Team – IAPRO Blue Team is web-based computer software that allows supervisors to enter use of force incidents, pursuits, and audits from a department computer.

De-Activation – Discontinuing audio and video recording and returning the camera to a standby mode in the on position.

Muting – A function of the BWC that allows for video recording while audio recording is disabled.

On Position – Switching the on/off switch of the camera into a standby mode which allows the camera, when activated, to capture the previous 30 seconds of video, excluding audio.

Stealth Mode – A function of the BWC where the LED indicator lights, sounds, and vibrations are disabled.

423.2 POLICY

It is the policy of the Antioch Police Department to utilize BWCs in a manner that will assist in criminal investigations and prosecution as well as civil litigation, by providing a recording of the incident that may supplement an employee's report and help document police conduct, investigations, and enforcement activity.

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Body-Worn Cameras (BWC)

423.3 MEMBER PRIVACY EXPECTATION

All recordings made by members acting in their official capacity shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

423.4 PROCEDURE

GENERAL

All personnel issued a BWC are required to wear and use their BWCs while working in uniform. A "uniform" is to be considered the standard uniform of the day based on assignment. This would include, but is not limited to, any apparel (e.g. tactical/raid vests, visible badge and firearm) that identifies the wearer as a police officer or community service officer (CSO).

Exceptions:

It is recognized that employees assigned to a specialized unit or a task force could face several practical and operational challenges that may, on occasion, prevent the use of BWCs while performing their duties. Employees issued a BWC system, and who are assigned to specialized units (non-uniformed positions), should have their BWC available to be used if needed. Such non-uniformed employees are responsible for ensuring the recording devices are in good working order prior to going on duty and shall use the device in accordance with this policy whenever they are involved in pre-planned events or pre-planned enforcement as outlined in section 423.5 (ACTIVATION/DEACTIVATION OF THE BWC) of this policy. These exceptions include:

- (a) Uniformed personnel attending a formal event, funeral or specified training assignment.
- (b) Personnel assigned to a non-uniformed position may carry a BWC at any time the employee believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed employees should wear the BWC in a conspicuous manner when reasonably practical.
- (c) Personnel working in an undercover capacity or while conducting plain clothes surveillance where the intent is not to be identified as a police officer and no enforcement action is planned.
- (d) Personnel with express managerial approval in accordance with this policy.

423.4.1 OFFICER RESPONSIBILITIES

Uniformed personnel assigned a BWC and working a patrol, jail, or front counter assignment are responsible for ensuring that they are equipped with a Department-issued BWC and the camera is fully charged and in good working order at the beginning of their shift. If a device is in need of repair, employees will notify their supervisor and turn the BWC into the BWC Administrator for repair or replacement.

On-duty uniformed personnel issued a BWC shall affix their issued BWC to their uniform above the belt line in a conspicuous manner at a location that will facilitate an optimum recording field of view.

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No employee shall deliberately remove, dismantle, or tamper with any hardware and/or the evidence management software component of the BWC.

All personnel are responsible for ensuring their assigned BWC is docked at the end of their shift and should make every reasonable effort to tag their videos by the end of their shift.

423.4.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall ensure officers utilize the BWC according to this policy. Supervisors shall ensure videos related to Officer-Involved Critical Incidents are uploaded as soon as possible following the event or as requested by a supervisor.

Supervisors may have the ability to immediately resolve citizen complaints by viewing video captured by the officer's BWC prior to contacting the citizen. At no time, except at the direction of the Chief or designee, shall the supervisor allow the citizen to view the file footage.

423.4.3 WATCH COMMANDER RESPONSIBILITIES

On a monthly basis, Watch Commanders shall perform a random audit, from a randomly selected date/time during the prior month, to review a minimum of five (5) consecutive calls for service with associated BWC files. The purpose of the audit should be to determine employee policy compliance, training needs, equipment malfunction, and consistency between the BWC video and associated police reports.

Minor policy violations (not criminal in nature) discovered during any review of recorded materials in accordance with departmental policy, should be viewed as training opportunities and not as routine disciplinary actions. Watch Commanders will continue to have discretion to resolve the violation with training or informal counseling. Should the behavior or action become habitual after being informally addressed, the appropriate disciplinary or corrective action should be taken.

Officers subject to a random "audit" shall be notified via department email, with the results of the audit.

423.5 ACTIVATION/DEACTIVATION OF THE BWC

There are many situations when to activate the BWC; however, this policy is not intended to describe every possible circumstance. The safety of officers and members of the public is the highest priority, and the Department acknowledges there may be situations in which operation of the device is impractical or may be an impediment to public and officer safety. Additionally, the Department recognizes human performance limitations during particularly stressful, critical situations. Users shall activate the camera when safe to do so.

While on duty, officers will keep their BWCs in the "on" position and buffering in mode except when inside the Police Department. In addition, officer may keep the BWC in the "off" position while the camera is permitted off, per Section 423.4.

423.5.1 WHEN TO ACTIVATE

During their shift, officers shall activate the BWC prior to initiating investigations and enforcement activity, whether self-initiated or in response to a dispatched call.

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Officers shall record non-enforcement contacts should they become confrontational, assaultive or enforcement oriented. In addition to the required conditions, personnel shall activate the system any time its use would be appropriate and/or valuable to document an incident.

Also, officers shall not be required to activate or deactivate their BWC based solely on the requests or demands of a citizen, but rather rely on their training and this policy to direct their use of the BWC.

While there may be circumstances in which the BWC cannot be activated immediately, the goal is to capture interactions with the public while providing police services. In the event an officer decides not to turn on their BWC based on the belief that their safety or the safety of the public is in jeopardy, the onus of providing evidence of such fact is the employee's responsibility. Any failure to activate the BWC in a circumstance in which the objective facts dictate otherwise, shall be cause for discipline.

423.5.2 AUTOMATIC ACTIVATION

The AXON BWC system has several methods of automatic activation external to the device itself. These methods of activation are as follows:

- Activation of the AXON TASER Conducted Electrical Weapon (CEW)
- Activating Code-3 Patrol Vehicle lights
- Removing a firearm from holster (for officers with a signal sidearm detection device)

No employee of this department shall intentionally disable any of the automatic activation features of this BWC system.

423.5.3 WHEN TO DEACTIVATE

BWC recordings shall not be intentionally deactivated until the conclusion of the encounter, except for tactical or safety reasons, or once the encounter no longer holds evidentiary, administrative, or investigative value.

423.5.4 OPTIONAL RECORDINGS

When conducting an investigation, the officer shall attempt to record the crime victim or witness' statement with the BWC. The recording may be valuable evidence that contributes to or complements an investigation. While evidence collection is important, the Department also recognizes it is important for officers to maintain credibility with people wanting to share information with law enforcement.

On occasion, an officer may encounter a reluctant crime victim or witness who does not wish to make a statement on camera. In these situations, the officer should continue to develop rapport with the individual while balancing the need for evidence collection with the individual's request for privacy. Officers should use their best discretion and consider not recording in the following situations:

- (a) Obtaining victim and witness statements in Sexual Assault or Child Abuse cases.
- (b) In a facility whose primary purpose is to provide psychiatric or medical services, unless responding to a call involving a suspect, taking a suspect statement, or addressing an issue which requires police action.

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- (c) In order to gain the cooperation of citizens who are reluctant to provide a statement while being recorded.
- (d) Conversations with agency personnel or members of personnel from another agency involving tactics and strategy.

423.5.5 BWC AUDIO MUTE MODE

The AXON BWC has mute capabilities. Utilizing the function button, the camera can be placed in a mode where video will continue to be saved, but audio recording will be disabled.

This mode may be useful in any incident where the officer determines audio recording should be deactivated, based on articulable reasons (i.e., sensitive intelligence gathering such as meeting with informants, when discussing sensitive tactical or confidential law enforcement information). These articulable reasons will be clearly documented in a written report.

423.5.6 ADVISEMENT AND CONSENT

For the purpose of this policy, it shall be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted body camera recorder will have knowledge that such a contact is being recorded.

423.5.7 EXPLOSIVE DEVICES

Many portable recorders, including BWCs and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

423.6 PROHIBITED USE OF PORTABLE RECORDERS

Personnel are not required to activate the BWC during routine, incidental contact with a citizen, (i.e., giving directions or lunch breaks). Officers shall not surreptitiously record any department member without their consent, a court order, or unless lawfully authorized by the Chief of Police or designee for the sole purposes of a criminal investigation.

423.6.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

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

423.7 DOCUMENTING USE OF BWCs

Personnel should not substitute a BWC recording for a detailed and thorough report. The assigned member is required to note the existence of the BWC recording in the associated crime report. In the event an activity required, by policy, to be recorded is not captured in whole or in part, the employee must articulate the reasoning.

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423.8 STORAGE AND RETENTION OF RECORDINGS

All BWC recordings will be stored via cloud storage, currently Evidence.com. The cloud storage service shall comply with Criminal Justice Information Systems (CJIS) requirements for law enforcement digital evidence storage.

Recordings of the following should be retained for a minimum of three years. (Penal Code § 832.18):

- (a) Incidents involving use of force by an officer.
- (b) Officer-involved shootings or any other Law Enforcement Involved Fatal Incident (LEIFI)
- (c) Incidents that lead to the detention or arrest of an individual
- (d) Recordings relevant to a formal or informal complaint against an officer or the Antioch Police Department

Recordings 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).

BWC recordings relating to incidents where criminal charges are filed shall be retained for at least one year after whichever of these events occurs last:

- (a) the matter is resolved; or,
- (b) the defendant has been released from custody; or,
- (c) the appeal is final.
- (d) The BWC recording may be destroyed earlier than this if the district attorney or other prosecuting agency, all defendants and the City Attorney are notified and given time to object prior to any destruction of a BWC recording related to a criminal incident.

All other recordings should be retained for a period consistent with the requirements of the organization's records retention schedule but, in no event, for a period less than 180 days.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

423.8.1 UNAUTHORIZED ACCESS AND USE

All BWC recordings shall remain the property of the Department and constitute official records of investigation of the Department. Unauthorized access to, use, duplication, and/or distribution of BWC files is prohibited. Personnel shall not make copies of any BWC file for their personal use and are prohibited from using a recording device such as a phone camera or secondary video camera to record BWC files.

Personally owned BWCs shall not be used while on duty. This does not preclude personnel to employ the use of a secondary or "back-up" device should their BWC become disabled or is unavailable for any reason. Secondary devices include department-issued cell phones, digital recording devices, or any device capable of capturing audio/video. Any such recording captured

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using a secondary device, will be considered the property of the Department and constitute official records of investigation of the Department.

423.8.2 ACCIDENTAL RECORDINGS

In the event of an accidental activation of the BWC where the resulting recording is of no investigative or evidentiary value, the recording officer may request that the BWC file be deleted. The officer will submit a request for deletion via email, with sufficient information to locate the BWC file, to any available supervisor. The supervisor will review the file, restrict access immediately, and approve or deny the request within 5 days.

423.9 RELEASE OF RECORDINGS

The Antioch Police Department's goal is to release BWC recordings of critical incidents to the greatest extent possible unless disclosure would:

- (a) endanger the safety of a witness or another person involved in the investigation,
- (b) jeopardize the successful completion of an investigation, or
- (c) violate local, state and/or federal laws, including but not limited to, the right of privacy.

In the event the Police Department or City intends to release or publish, for any purpose, video recordings where officers are captured on video or the video depicts actions taken by them in the course of the performance of their official duties, those officers shall be given written notice of the intention to release or publish said video with as much advance notice possible.

APD may, without prior notice to involved officers, share video footage of specific incidents with other law enforcement agencies outside of Antioch, when there is reasonable suspicion that criminal activity has occurred or is about to occur.

Non-Departmental Requests:

- (a) The Department shall accept and process PRA requests in accordance with the provisions of federal, state and local statutes and Department policy.
- (b) Members shall provide discovery requests related to the rebooking process or other court proceedings by transferring the BWC recording to the requesting agency via evidence.com.
- (c) City Attorney requests.
- (d) Other requests shall be reviewed on a case-by-case basis with access being granted as permitted by the Chief of Police or the authorized designee.

423.10 REVIEW OF RECORDINGS

All file viewing is for law enforcement use only and subject to a right to know and need to know basis. Department personnel may review BWC files relating to courtroom testimony, report preparation, training, and administrative interviews except as otherwise stated in this policy. Department supervisors may access BWC footage for the purposes consistent with the

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policy. Supervisors may not review an officer's BWC footage to search for violations of Department policy without cause.

No employee shall modify, alter, reuse, erase, or tamper with video or audio recorded by the BWC except as authorized by this policy.

423.10.1 TRAINING WITH BWC FILES

A BWC file may be utilized as a training tool for individuals, specific units, and the Department as a whole with the involved officers' permission. Department members recommending utilization of a BWC file for training purposes will submit the recommendation through the chain of command to the Training Unit Commander.

Exception: Field Training Officers may use BWC files to provide immediate training to recruits and to assist with the completion of the Daily Observation Report.

423.10.2 OFFICER INVOLVED CRITICAL INCIDENTS

In accordance with the Contra Costa County Law Enforcement-Involved Fatal Incident (LEIFI) Manual, the initial interview of an officer involved in a LEIFI should occur before the officer has reviewed any audio/video recordings of the incident.

Once an involved officer has provided an initial statement, he/she will have an opportunity to review any available recordings with his representative. The officer shall then be afforded an opportunity to provide a follow-up statement after having reviewed the recording(s).

Investigators will be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by the involved officer. When the investigator shows any audio/video recordings to an involved officer after the initial interview, the investigator will admonish the involved officer about the limitations of audio/visual recordings.

The following is an example of an admonishment that would be appropriate in a case involving video evidence that is shown to the involved officer after he/she has provided an initial statement. In these situations, the showing of a BWC footage to an officer will be documented in the investigator's report:

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, the video evidence is intended to assist your memory and recollection.

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In those situations where a Scene Supervisor is charged with the collection of evidence, the Crime Scene supervisor will, as soon as safe and practical, retrieve the BWC from the involved officer at the scene. The Crime Scene supervisor will be responsible for assuring the BWC file is uploaded.

423.11 USER TRAINING

All members who are authorized to use the BWC system shall successfully complete an approved course of instruction prior to its use.

After completing APD BWC training and being issued a BWC, officers will be afforded a six-month training period to adapt to the new equipment. After the training period, officers shall be in full compliance with this policy.

Mobile Video/Audio Recorder (MVAR)

427.1 PURPOSE AND SCOPE

The Antioch Police Department has equipped marked patrol cars with Mobile Video/Audio Recorder (MVAR) systems to provide records of events and assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

The Antioch Police Department (APD) recognizes the use of a MVAR by its officers conveys a sense of law enforcement legitimacy, accountability, and transparency. The APD believes video and audio recordings from MVARs will serve as a tool to maintain and enhance the community's trust in the Department. The recordings will capture interactions with the public and provide additional means of evidence collection for criminal investigations, administrative investigations, and civil litigation. In addition, MVARs will serve as a valuable training aid for officers.

While MVAR recordings can provide an unbiased and objective account of a police contact, there are limitations to MVAR video technology. Specifically, there are inherent differences between how human beings see and interpret their surroundings and how MVARs record video. In some cases, an officer may observe things not captured by a MVAR and vice versa. Therefore, it is critical to consider MVAR footage as one piece of useful information regarding an incident, just as an officer's experience, state of mind, and input gleaned from his or her other senses would be considered useful information. Where these varied sources of information are combined, a more complete picture of an incident can be obtained.

427.1.1 DEFINITIONS

Definitions related to this policy include:

Activation – Any process that causes the MVAR system to transmit or store video or audio data in an active mode.

Deactivation – Discontinuing audio and video recording and returning the system to a standby mode.

In-car camera system and Mobile Video/Audio Recorder (MVAR) system – Synonymous terms which refer to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at minimum, a camera, microphone, recorder, and monitor.

Recorded media – Audio-video signals recorded or digitally stored on a storage device, portable media, or on the cloud.

427.2 POLICY

It is the policy of the Antioch Police Department to use mobile audio and video technology to fulfill the Department's mission more effectively and to ensure these systems are used securely and efficiently.

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Mobile Video/Audio Recorder (MVAR)

427.3 MEMBER PRIVACY EXPECTATIONS

All recordings made by members acting in their official capacity shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

427.4 PROCEDURE

All marked police vehicles will be equipped with a MVAR system according to the manufacturer's recommendations.

427.4.1 OFFICER RESPONSIBILITIES

At the start of each shift, each officer shall sign in and test the MVAR system to confirm the system is working properly and within Department operating procedures and training. If the system is malfunctioning, the officer shall promptly notify their shift supervisor and take another vehicle with a working MVAR unit. If no such vehicle is available, the officer may use the vehicle during the shift but should complete a MDS/MVAR repair slip at the end of their shift.

427.4.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall ensure that officers utilize the MVAR camera according to this policy. Supervisors shall ensure videos related to Officer-Involved Critical Incidents, are uploaded as soon as possible following the event or as requested by a supervisor.

Supervisors may have the ability to immediately resolve citizen complaints by viewing video captured by the officer's MVAR camera prior to contacting the citizen. At no time, except at the direction of the Chief or designee, shall the supervisor allow the citizen to view the file footage.

427.4.3 WATCH COMMANDER RESPONSIBILITIES

On a monthly basis, Watch Commanders shall perform a random audit, from a randomly selected date/time during the prior month, to review a minimum of five (5) consecutive calls for service with associated MVARs files. The purpose of the audit should be to determine employee policy compliance, training needs, equipment malfunction, and consistency between the MVAR video and associated police reports.

Minor policy violations (not criminal in nature) discovered during any review of recorded materials in accordance with departmental policy, should be viewed as training opportunities and not as routine disciplinary actions. Watch Commanders will continue to have discretion to resolve the violation with training or informal counseling. Should the behavior or action become habitual after being informally addressed, the appropriate disciplinary or corrective action should be taken. Officers subject to a random "audit" shall be notified via department email, with the results of the audit.

427.5 ACTIVATION/DEACTIVATION OF THE MVAR

This policy is not intended to describe every possible situation in which the MVAR system may be used, although there are many situations where its use is appropriate. An officer shall activate the system any time the officer believes it would be appropriate to document an incident.

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The safety of officers and members of the public is the highest priority, and the Department acknowledges there may be situations in which operation of the device is impractical or may be an impediment to public and officer safety. Additionally, the Department recognizes the human performance limitations during particularly stressful, critical situations. Manual activation should only occur when safe to do so.

In some circumstances it is not possible to capture images of the incident due to conditions or location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the MVAR.

427.5.1 AUTOMATIC ACTIVATION OF THE MVAR

The MVAR system is designed to turn on automatically under specific circumstances. These circumstances are:

- (a) Light Control - The MVAR system will automatically begin recording when the patrol vehicle's emergency lights are moved to the #2 or #3 positions.
- (b) Speed Activation - The MVAR system will automatically begin recording when the patrol vehicle's GPS speed reaches 85 MPH.
- (c) Crash Sensor - The MVAR system will automatically begin recording when the patrol vehicle is involved in a collision strong enough to trigger the installed collision sensors.
- (d) Any time the Officer's body worn camera (BWC) is activated.

427.5.2 MANUAL ACTIVATION OF THE MVAR

The MVAR system shall be activated prior to or as soon as practical after initiating any of the following situations:

- (a) All enforcement encounters or investigative contacts involving actual or potential criminal conduct, whether self-initiated or in response to a dispatched call, and that is within video or audio range.
- (b) While responding to an in-progress call or code 3 driving.
- (c) Prisoner transports or courtesy transports.
- (d) All self-initiated activity in which an officer would normally notify the Dispatch Center.
- (e) Any other circumstance where the officer believes that an MVAR recording of an incident would be appropriate.

427.5.3 WHEN TO DEACTIVATE

Once activated, the MVAR system shall remain on until the conclusion of the encounter, for tactical or safety reasons, or when the encounter no longer holds evidentiary, administrative, or investigative value.

427.5.4 ADVISEMENT AND CONSENT

For the purpose of this policy, it shall be presumed that any individual contacted by a uniformed officer in a marked police vehicle will have knowledge that such a contact is being recorded.

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427.6 PROHIBITED USE OF MVAR

Officers shall not surreptitiously record any department member without their consent, a court order, or unless lawfully authorized by the Chief of Police or designee for the sole purposes of a criminal investigation. Personnel are not required to activate the MVAR camera system during routine, incidental contact with a citizen, (i.e., giving directions or lunch breaks).

427.6.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

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

427.7 DOCUMENTING MVAR USE

Personnel should not substitute a MVAR recording for a detailed and thorough report. The assigned member is required to note the existence of the MVAR recording in the associated crime report, citation, or CAD notes. In the event an activity required, by policy, to be recorded is not captured in whole or in part, the employee must articulate the reasoning.

427.8 STORAGE AND RETENTION OF RECORDINGS

All MVAR recordings will be stored via cloud storage, currently Evidence.com. The cloud storage service shall comply with Criminal Justice Information Systems (CJIS) requirements for law enforcement digital evidence storage.

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

- (a) Incidents involving use of force by an officer.
- (b) Officer-involved shootings or any other Law Enforcement Involved Fatal Incident (LEIFI).
- (c) Incidents that lead to the detention or arrest of an individual.
- (d) Recordings relevant to a formal or informal complaint against an officer or the Antioch Police Department.

Recordings 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).

MVAR recordings relating to incidents where criminal charges are filed shall be retained for at least one year after whichever of these events occurs last:

- (a) The matter is resolved; or,
- (b) the defendant has been released from custody; or,
- (c) the appeal is final.
- (d) The MVAR recording may be destroyed earlier than this if the district attorney or other prosecuting agency, all defendants and the City Attorney are notified and given time to object prior to any destruction of a MVAR recording related to a criminal incident.

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All other recordings should be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days. Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

427.8.1 UNAUTHORIZED ACCESS AND USE

All MVAR recordings shall remain the property of the Department and constitute official records of investigation of the Department. The unauthorized access, use, duplication, and/or distribution of MVAR recordings is prohibited. Personnel shall not make copies of any MVAR recording for their personal use.

Personally owned recording devices shall not be used while on duty. This does not preclude personnel from the use of a secondary or "back-up" device should their MVAR become disabled or is unavailable for any reason. Secondary devices include department-issued cell phones, digital recording devices, or any device capable of capturing audio/video. Any such recording captured using a secondary device, will be considered the property of the Department and constitute official records of investigation of the Department.

427.8.2 ACCIDENTAL RECORDINGS

In the event of an accidental activation of the MVAR where the resulting recording is of no investigative or evidentiary value, the recording officer may request the recording be deleted. The officer will submit a request for the deletion via email with sufficient information to locate the MVAR recording, to any available supervisor. The supervisor will restrict access to the recording immediately, review the recording, and approve or deny the request within five (5) days.

427.9 RELEASE OF MVAR RECORDINGS

The Antioch Police Department's goal is to release MVAR recordings of critical incidents to the greatest extent possible unless disclosure would:

- (a) endanger the safety of a witness or another person involved in the investigation,
- (b) jeopardize the successful completion of an investigation, or
- (c) violate local, state and/or federal laws, including but not limited to, the right of privacy.

In the event the Police Department or City intends to release or publish, for any purpose, video recordings where officers are captured on video or the video depicts actions taken by them during the performance of their official duties, those officers shall be given written notice of the intention to release or publish said video with as much advance notice possible.

APD may, without prior notice to involved officers, share video footage of specific incidents with other law enforcement agencies outside of Antioch, when there is reasonable suspicion that criminal activity has occurred or is about to occur.

Non-Departmental Requests:

- (a) The Department shall accept and process PRA requests in accordance with the provisions of federal, state, and local statutes and Department policy.

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- (b) Members shall provide discovery requests related to the rebooking process or other court proceedings by transferring the MVAR recording to the requesting agency via evidence.com.
- (c) City Attorney requests.
- (d) Other requests shall be reviewed on a case-by-case basis with access being granted as permitted by the Chief of Police or the authorized designee.

427.10 REVIEW OF MVAR RECORDINGS

All file viewing is for law enforcement use only and subject to a right to know and need to know basis. Department personnel may review MVAR files relating to courtroom testimony, report preparation, training, and administrative interviews except as otherwise stated in this policy. Department supervisors may access MVAR footage for the purposes consistent with the policy. Supervisors may not review an officer's MVAR footage to search for violations of Department policy without cause.

No employee should modify, alter, reuse, erase, or tamper with video or audio recorded by the MVAR except as authorized by this policy.

427.10.1 TRAINING WITH MVAR RECORDINGS

A MVAR recording may be utilized as a training tool for individuals, specific units, and the Department as a whole, with the involved officers' permission. Department members recommending utilization of MVAR recordings for training purposes will submit the recommendation through the chain of command to the Training Unit Commander.

Exception: Field Training Officers may use MVAR recordings to provide immediate training to recruits and to assist with the completion of the Daily Observation Report.

427.10.2 OFFICER INVOLVED CRITICAL INCIDENTS

In accordance with the Contra Costa County Law Enforcement-Involved Fatal Incident (LEIFI) Manual, the initial interview of an officer involved in a LEIFI should occur before the officer has reviewed any audio/video recordings of the incident. Once an involved officer has provided an initial statement, he/she will have an opportunity to review any available recordings with his representative. The officer shall then be afforded an opportunity to provide a follow-up statement after having reviewed the recording(s).

Investigators will be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by the involved officer. When the investigator shows any audio/video recordings to an involved officer after the initial interview, the investigator will admonish the involved officer about the limitations of audio/visual recordings. In these situations, the showing of a MVAR footage to an officer will be documented in the investigator's report.

In those situations where a Crime Scene Supervisor is charged with the collection of evidence, the Crime Scene Supervisor will, as soon as safe and practical, retrieve the MVAR from the involved

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officer's vehicle. The Crime Scene Supervisor will be responsible for assuring the MVAR file is uploaded.

427.11 TRAINING

All members who are authorized to use the MVAR system shall successfully complete an approved course of instruction prior to its use.

After completing APD MVAR training and utilizing the MVAR system, officers will be afforded a six-month training period to adapt to the new equipment. After the training period, officers shall be in full compliance with this policy.