

Carlsbad Police Department

Policy Manual Special Order 2022-03

Pursuant to Carlsbad Police Department Policy 204, this Special Order becomes effective January 20, 2022. Policy Section 449.5 has been amended with the addition of subsection (g) to reflect the following:

(g) During all prisoner handling, searching, booking, or transferring processes, unless prohibited by a Detention Facility.

The new Policy 449.5 reads as follows:

449.5 ACTIVATION OF THE BWC

This policy is not intended to describe every possible situation in which the BWC should be used, although there are many situations where its use is appropriate. Members should activate the BWC any time the member believes it would be appropriate or valuable to record an incident. Department members are encouraged to advise members of the public of the recording. However, the Department member must consider who is being recorded and any facts that would indicate that such notice would interfere or otherwise be contrary to the mission of the Department. In the event that the Department member believes such notice would interfere or otherwise be contrary to the mission of the Department, the member may elect not to advise the public of the recording.

It is suggested that members make the advisement in a language the recorded person(s) can understand, to the extent that members are able to communicate in that language.

The BWC shall be activated in any of the following situations:

(a) All anticipated enforcement actions and investigative contacts to include field interviews, traffic stops and searches. Generally, members do not need to record routine report calls where there is no anticipated enforcement action.

(b) When practical, all suspect statements. Victim and witness statements when deemed appropriate or useful by the member of the Department.

(c) When transporting a prisoner or providing transportation for a member of the public.

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording or in the event the member believes the recording would protect the interests of the member or the Department.

(e) As soon as practical and safe, upon initiation of a vehicle pursuit.

(f) When requesting or obtaining consent to search.

(g) During all prisoner handling, searching, booking, or transferring processes, unless prohibited by a Detention Facility.

Members may encounter special circumstances which should not be recorded:

(a) Members should not record other public safety personnel without their consent or notification. However, members should notify other public safety personnel, such as firefighters, paramedics, or other law enforcement officers as soon as practical when they are being recorded during an incident.

(b) Members are not required to record non-enforcement contacts such as citizen flags for directions or non-enforcement related contacts with the public.

(c) Victims of child abuse or molest generally should not be video recorded.

(d) Victims of sexual assault generally should not be video recorded without consent.

(e) Victims who are partially unclothed or nude should generally not be video recorded unless a recording would serve a legitimate law enforcement interest. Regardless, the victim shall be covered as soon as reasonably possible to protect their personal privacy and dignity.

(f) Members should generally not record victims or suspects in hospital or emergency room settings. In the event a member elects to make a recording, whether audio or video under this section, the member shall take all reasonable steps in consideration of the HIPPA rights of patients and the privacy of hospital staff. Members may video or audio record a suspect if the suspect's conduct is violent or threatening to staff or to members.

Members shall remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Suspects who are nude or partially unclothed shall be covered as soon as reasonably possible to protect their personal privacy and dignity.

However, private citizens do not have a reasonable expectation of privacy when talking with police officers during the scope of an officer's official duties, even when the contact is in a private residence. When officers are lawfully present in a home (warrant, consent, or exigent circumstances) in the course of official duties, there is no reasonable expectation of privacy. Therefore, officers are not required to give notice they are recording. However, if asked, officers shall advise citizens they are being recorded.

Officers are not required to initiate or cease recording an event, situation or circumstance solely at the demand of a citizen.

Requests by members of the public to stop recording shall be evaluated balancing the request for privacy with legitimate law enforcement interest in recording. In the event that recording is ceased, recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a BWC or change the recording media. However, the BWC should be activated in situations described above as soon as practicable.

Williams #5221
Mickey Williams, Chief of Police

1.20.22
Date