

2023 Anticipated Surveillance Impact Report

County of Santa Clara Office of the District Attorney

Body-Worn Camera (BWC) System

Description of Surveillance Technology

The District Attorney's Body-Worn Camera (BWC) System is comprised of body worn cameras, the captured data, and the storage of that data.

Body-worn cameras (BWCs) are small video cameras typically attached to a criminal investigator's tactical vest. They capture, from an investigator's point of view, video and audio recordings of the investigator's activities, including all person stops, arrests, searches, interrogations, and critical incidents such as investigator-involved shootings during qualifying usage events.

The associated data includes the video and audio recorded by the BWC, as well as the date/time of recording, location of recording, and audit trail documenting access to the data. BWC recordings and associated data will be uploaded to a Criminal Justice Information System (CJIS) compliant off-site Evidence Management System (EMS) managed by the BWC System vendor.

The primary objective of the BWC System is to document investigator contacts, arrests, and critical incidents during operations and citizen contacts. Video footage collected by the BWCs will be used as evidence in both criminal and administrative investigations, and, in limited situations, training. Video footage not relevant to any investigation or training will be discarded pursuant to the applicable retention schedule.

Proposed Purpose for the Surveillance Technology

The proposed purpose of BWCs is to record events (including any individuals involved) when investigators conduct law enforcement activities, including, but not limited to, planned operations, planned person contacts, officer-of-the-day customer service interactions (e.g., District Attorney's Office Lobby service requests), and planned detention to arrest situations. BWC data may also be used for training purposes in limited circumstances.

Locations of Deployment

BWCs will be primarily affixed to an investigator's tactical load-bearing vest by a removable backing system. BWCs may also be affixed to an investigator's attire for non-tactical contacts

(e.g., lobby interactions related to law enforcement investigations). Pursuant to the BWC Surveillance Use Policy (SUP), investigators shall affix cameras for all planned law enforcement operations conducted in Santa Clara County, as well as those in neighboring jurisdictions that cross county boundaries. Note: any operation that may occur outside of Santa Clara County requires an operation plan and supervisor approval prior to travel and enforcement. All BWCs not in use will be stored on docking stations in a secure equipment room located within the Bureau of Investigation (BOI).

Potential Impacts on Civil Liberties and Privacy

Equipping members of law enforcement with BWCs can improve the civility of police-citizen encounters and enhance police transparency, accountability, and legitimacy. These objectives must be pursued with a commitment to protecting the privacy interests of every person who is recorded by a BWC.

The BWC System shall be limited to use in criminal and administrative investigations (e.g., allegations of investigator misconduct) to enhance the accuracy of investigators' reports and courtroom testimony, and, unless otherwise prohibited by the SUP, for on-going training.

During a law enforcement event, investigators shall ensure that the BWC is properly worn in a conspicuous manner and is positioned to record events. Investigators shall activate their BWCs prior to making contact in any of the following circumstances:

- Planned enforcement encounters where there is a reasonable suspicion that the person is involved in criminal activity or a violation of law. This includes all detentions and consensual encounters.
- Any other contact during a planned operation, including service of search or arrest warrants.
- Any contact that becomes confrontational, assaultive, or enforcement oriented.
- Any time an investigator believes its use would be appropriate and/or valuable to document an incident.

The potential impacts that the BWC system will have on civil liberties and privacy will be limited. Investigators shall use BWCs in a manner consistent with the Constitution of the United States of America, the Constitution of the State of California, applicable laws and ordinances, the Board-approved SUP, and internal BOI policies governing the use and oversight of BWCs. As provided in the SUP, investigators shall not use BWCs to record where individuals have a reasonable expectation of privacy unless the investigator obtains consent from the individual(s) being recorded or if the recording is being lawfully made pursuant to an arrest or search of the residence or individual(s). Investigators must also use reasonable caution while recording in sensitive areas, such as changing rooms, hospitals and healthcare facilities, and doctor's or lawyer's offices due to heightened expectations of privacy and other legal protections.

The use of BWCs by the DAO will firstly be regulated by the SUP as required by County Ordinance Division A40 – Surveillance – Technology and Community – Safety. The SUP addresses the purpose, authorized use, data collection, data access, data protection, data retention, public access and third-party data sharing, training, and oversight associated with BWCs. A second policy will be a dedicated operations policy, which further addresses individual privacy, investigator responsibilities, supervisor responsibilities, BWC activation, surreptitious recordings (Penal Code §633), cessation of recordings, prohibited BWC usage, identification and preservation of recordings, review of media files, BWC coordinator responsibilities, record retention, and Public Record Request Act requests. Together, these policies work in harmony to ensure that investigators operate, utilize and store all information captured by BWCs in a manner that ensures civil liberty protections.

Additionally, the Office of the District Attorney shall file an Annual Surveillance Report as required by County Ordinance Division A40 – Surveillance – Technology and Community – Safety.

Fiscal Analysis

The industry leading vendor in body-camera technology is Axon. The vast majority of law enforcement agencies in Santa Clara County use Axon cameras and their cloud storage/sharing platform, Evidence.com. The fiscal cost for 50 cameras, 100 user licenses, docking stations, data storage, and warranty for a five-year period is:

Fiscal Analysis

Initial purchase cost:	\$101,311.17
Projected ongoing costs:	\$49,714.48 year two
	\$51,703.07 year three
	\$53,771.18 year four
	\$55,922.01 year five
Projected personnel costs:	There are no projected personnel costs associated
Sources of funding:	TBD