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## Body-Worn Cameras

### PURPOSE AND SCOPE

This policy provides guidelines for the use of body-worn cameras by members of this department while in the performance of their duties. Body-worn cameras (BWC) are an effective law enforcement tool that can enhance the understanding of interactions between police and the public. Body-worn cameras provide additional documentation of police and community encounters and can be an important tool for collecting evidence and maintaining public trust.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted by members of the Department, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

### DEFINITIONS

**Body-worn cameras** – camera system designed to be worn by police department members to capture Digital Multimedia (DM)

**Device** – equipment that allows the capability to make, view or transfer a recording of audio or video.

**Digital Media (DM)** – DM consists of all digital recordings, to include but not limited to audio, video, photographs, and their associated metadata.

**Metadata** – includes any digital identifier captured as part of the actual recording (e.g., date/time, GPS coordinates, incident category, etc.) plus data entered by the user.

**Activate** – to cause a video or audio recording to be made through a body-worn camera system.

### POLICY

Hillsboro Police may provide members with body-worn cameras for use during the performance of their official duties. The use of body-worn cameras is intended to enhance the mission of the Department by capturing contacts between members of the Department and the public. This policy is intended to provide guidance and direction related to the use of body-worn cameras by members of the department.

### MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in their official capacity of this department shall be the property of the

## *Body-Worn Cameras*

Department. Members shall have no expectation of privacy or ownership interest in the content of recordings.

### **MEMBER RESPONSIBILITIES**

Prior to using a body-worn camera, members shall receive department-approved training on the proper operation and care, and the department's policy with respect to the use of the BWC. Training shall be provided at periodic intervals to ensure the continued effective use of the equipment, proper calibration and performance, and to incorporate changes, updates or other revisions in policy or equipment.

Members assigned a body-worn camera will inspect and test it prior to each shift to verify proper functioning (including a fully charged battery). If the BWC is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor. Members shall not remove, dismantle, or tamper with any hardware/software component or part of the BWC. No personally owned body-worn camera devices shall be used.

In the event a body-worn camera is lost, upon discovery, the members shall immediately notify his/her supervisor.

Members should wear the BWC in a manner as determined by the Chief of Police or authorized designee. The member will notify persons that they are being recorded, whenever reasonably practicable.

### **REPORTING REQUIREMENT**

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

### **OPERATION**

#### **ACTIVATION**

This policy is not intended to describe every possible situation in which the body-worn camera should be used, although there are many situations where its use is appropriate. Unless there are exigent circumstances or concerns for the safety of the member or any other person, body-worn cameras shall be activated whenever the officer has or develops reasonable suspicion or probable cause that an offense has been or will be committed by a person in contact with the member (ORS 133.741).

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

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations;

## *Body-Worn Cameras*

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- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops;
- (c) Self-initiated activity that may be investigatory or enforcement in nature;
- (d) If it is safe to do so, any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording;
- (e) When a person is in custody or being detained. (This includes detentions in handcuffs while investigating whether or not a crime(s) have occurred).

BWC's should be activated in the following situations:

- (a) Transport of a person not in custody;
- (b) Anytime a member believes it would be appropriate or valuable to record an incident.

### NOTIFICATION OF RECORDING

At no time is a member expected to jeopardize his/her safety in order to activate a body-worn camera. However, members shall announce at the beginning of an interaction (or as soon as practical) that the conversation is being recorded. The notification should be included in the recording when possible. Exceptions can be made in accordance with ORS 165.540 subsections (2) through (7) and ORS 133.726 (prostitution offenses, felonies when exigency makes obtaining a warrant unreasonable, certain felony drug offenses, felonies that endangers human life) (ORS 165.540). Exceptions may also apply to situations such as a public meeting or rally.

### PRIVACY CONSIDERATIONS

Members should 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.

Examples and sensitive situations include, but are not limited to:

- (a) A witness or victim who wishes to remain anonymous or refuses to provide a statement if recorded and the encounter is non-confrontational
- (b) Recordings that would jeopardize safety planning for victims
- (c) Recordings that would disclose private security measures of residences or businesses
- (d) Recordings that would interfere with the ability to conduct an investigation due to sensitive circumstances (e.g., nudity, a victim of rape, child sex abuse, presence of child pornography, incest, or other form of sexual assault)

### REFER TO LINK/ATTACHMENT ON DA GUIDANCE

Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

## *Body-Worn Cameras*

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### RECORDING CONSIDERATIONS:

Oregon law generally prohibits any individual from surreptitiously recording any conversation, except as provided in ORS 165.540 and ORS 165.543.

Members shall not surreptitiously record any person without a court order unless lawfully authorized by the Chief of Police, authorized designee or as otherwise allowed by law.

Body-worn cameras will not be intentionally used in the following circumstances:

- (a) In any location where individuals have a reasonable expectation of privacy, such as a restroom, fitness or locker room, or designed break room.
- (b) When an officer would be recording a patient during a medical, health care provider or psychological evaluation by a clinician or similar health care professional, or during treatment. When recording in hospitals or other health care facilities, officers shall be careful to avoid recording persons other than the suspect or witnesses that are deemed relevant to the matter being investigated by the officer.
- (c) Communications made in a psychiatric facility, unless responding to a call involving a suspect who is thought to be present in the facility.
- (d) Encounters with undercover officers or confidential informants.
- (e) When an officer is engaged in conversations with individuals with whom the officer is in a privileged relationship (e.g., spouse, legal counsel, police peer counselor).

### RECORDING DEACTIVATION:

Once activated, the BWC should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

### EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where the member is aware that an explosive device may be present.

### **PROHIBITED USE OF BODY-WORN CAMERAS**

Members are prohibited from using department-issued body-worn cameras for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained using a BWC. Members shall not duplicate or distribute such recordings, except for authorized law enforcement purposes. All recordings shall be retained at the Department or by a Department-approved third-party vendor.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

Recordings from body-worn video cameras shall not be analyzed with facial recognition or other biometric matching technology (ORS 133.741).

### **IDENTIFICATION AND PRESERVATION OF RECORDINGS**

Body-worn cameras shall be docked at the end of the member's on-duty work shift unless approved by a supervisor. Each file shall be categorized, tagged or marked with information related to the date, BWC identifier, assigned member and case number.

Members should flag any incident in which some or all of the record data should not be released due to its sensitive nature (e.g., sensitive intelligence data, request of victim, complainant or witness for non-disclosure, revealing identity of a confidential informant, sensitive victim cases, medical information, privacy or safety considerations) or of any recorded incident which might be valuable for training purposes.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

### **RETENTION**

All recordings shall be retained for a period in accordance with state record retention laws and consistent with the requirements of the City's records retention schedule but in no event for a period less than 180 days. Recordings made from body-worn video cameras no longer needed for a court proceeding, not subject to evidence or public record retention, or an ongoing criminal investigation shall not be retained for more than 30 months (ORS 133.741). Members shall not retain personal copies of recordings.

### **HANDLING AND RELEASE OF DIGITAL MEDIA**

- (a) Department-owned BWC equipment and all data, images, video and metadata captured, recorded, or otherwise produced by the equipment is the property of the department;
- (b) Any contract with a third-party vendor for data storage of recordings from body-worn video cameras must state that all recordings are the property of the Hillsboro Police Department, not owned by the vendor, and cannot be used by the vendor for any purpose inconsistent with the policies and procedures of the Department. (ORS 133.741);
- (c) All files will be stored and maintained in a secure location as approved by the Chief of Police or authorized designee;
- (d) Requests for the release of BWC audio/video recordings shall be processed in accordance with the Hillsboro Police Policy 805 and Records Division guidelines.

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**REVIEW AND USE OF DIGITAL MEDIA**

There may be circumstances when the Chief of Police or the authorized designee may restrict access or viewing of digital media. Generally however, when preparing written reports, members shall have the option to review their recordings as a resource prior to preparing reports, preparing to make or give a statement about their BWC recorded activities and/or testifying in any forum (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). Members should not use the fact that a recording was made as a reason to write a less detailed report.

**MEMBERS:**

Members shall not edit, alter, erase, duplicate, copy, share or allow others to view (unless approved by the Chief or designee), or otherwise distribute in any manner BWC images and information. Requests for any of these shall be made through the Chief of Police, Records or Evidence Division in accordance the Department's public record request processes.

- (e) Members will not take "screen shots" or make any reproduction of any video or audio content unless approved by the Chief of Police or authorized designee.

**INVESTIGATIONS DIVISION:**

Investigation supervisors may review DM relevant to any investigation being conducted. Investigation supervisors may also authorize a detective to review DM relevant to that detective's investigation.

**SUPERVISORS:**

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct, for training purposes, related to reports of meritorious conduct or whenever such recordings would assist them in reviewing the member's performance.

Review of BWC content resulting in the inadvertent discovery of policy or misconduct allegation shall result in a supervisor notifying the member of a secondary review through the administrative review or internal affairs process.

Audio and video recordings from body worn cameras may be viewed by an involved employee and/or their legal representation during their representation of an employee as approved by the Chief of Police or authorized designee.

**CRITICAL INCIDENTS:**

After a critical incident, when safe and practical to do so, a supervisor shall retrieve the BWC from involved and witness members at the scene. The supervisor will be responsible for assuring the DM is uploaded. Following an officer-involved shooting, use of deadly force or other critical incident, BWC files may only be viewed prior to being uploaded when exigent circumstances exist, such as an officer being injured and in order to obtain identifying suspect information or other pertinent information from the BWC files. Records may only be viewed by those personnel authorized in order to assist in an investigation or as authorized by the Chief of Police or

## *Body-Worn Cameras*

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authorized designee. Viewing will occur in a secure and private location as determined by the Chief of Police or authorized designee.

### CRITICAL INCIDENTS INVOLVING USE OF DEADLY FORCE:

If the member is giving a statement about the use of force or if the officer is the subject of a disciplinary investigation, the officer shall have the option and reasonable opportunity (generally no less than 48 hours) to view only their video recording in the presence of the officer's legal representative before giving a statement. Records may only be viewed by those personnel authorized in order to assist in an investigation or as authorized by the Chief of Police or authorized designee. Viewing will occur in a secure and private location as determined by the Chief of Police or authorized designee.

### USE OF FORCE:

If the member is giving a statement about the use of force or if the member is the subject of a disciplinary investigation, the member shall:

- (a) Have the option of reviewing the member's recording in the presence of the officers legal counsel or labor representative;
- (b) Have the right to review recordings from other Hillsboro BWC files capturing the member's image or voice during the underlying incident and/or events that are subject of the investigation.

### OTHER REQUESTS:

BWC files may also be requested or viewed:

- (a) By any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation as approved by the Chief of Police or the authorized designee;
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case;
- (c) By media personnel with permission of the Chief of Police or the authorized designee;
- (d) In compliance with a public records request, if permitted, and in accordance with the Hillsboro Police Policy and Oregon law.

All recordings should be reviewed by the Custodian of Records or as assigned by the Records Division prior to public release (see Hillsboro Police Policy 805 and applicable Records Division guidelines). The Records Division will ensure any release of BWC files complies with Oregon Law. Should a recording unreasonably violate a person's privacy or sense of dignity it should not be publicly released unless disclosure is required by law or order of the court.

*Body-Worn Cameras*

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**ANNUAL REVIEW:**

The BWC policy will be reviewed yearly to ensure compliance with law and Department expectations.