

**000.00 BODY WORN CAMERA PROCEDURES****(Version 2.2)** Index: Title, Body Worn Camera

Refer:

**1. STATEMENT OF PURPOSE**

**1.1.** This purpose of this directive is to establish procedural guidelines for the use of body worn camera systems to include the camera and any data base where body worn camera video or data is stored or accessed.

**2. DIRECTIVE SPECIFIC DEFINITIONS**

**2.1. BODY WORN CAMERA SYSTEM:** A camera system that is worn on the body capable of capturing both audio and video.

**2.2. BODY WORN CAMERA SYSTEM PROGRAM MANAGER:** A person assigned to manage the body worn camera system, including the video storage system.

**2.3. MEDICAL CALL:** A call where medical treatment is sought and there is no criminal nexus.

**2.4. MENTAL HEALTH CRISIS:** An incident where a community member is suffering from behavioral issues that creates a danger to themselves or others. This includes both diagnosed mental health conditions and undiagnosed conditions that may present due to external factors. This condition may be temporary.

**2.5. PRE-EVENT RECORDING:** The recording of audio or video before the activation of the record button. This feature can be set to record a pre-determined segment of video before the member activates the record button.

**2.6. RECORD AFTER THE FACT:** The ability to recover video after an event even when the record button on the body worn camera was not physically activated by the member. This feature requires that the device was turned on.

**2.7. RETENTION PERIOD:** The length of time a video is stored in the Video Storage System. **2.8. VIDEO STORAGE SYSTEM:** A system comprised of a server and or computer and software used to store and categorize video and audio captured by on body cameras. This includes data/video stored by a vendor.

**3. POLICY**

**3.1.** The Portland Police Bureau recognizes the importance of transparent policing that protects the community and the police.

**3.2.** The Portland Police Bureau further recognizes that video images cannot always depict the entire scene or incident in the way that it may have been perceived or experienced by any person present. The Portland Police Bureau recognizes video recordings have at least the following limitations:

**3.2.1.** Body worn video cameras may capture something that the wearer of the camera did not see, conversely, there may be a viewpoint that the wearer saw, that was not captured by the body worn camera.

**3.2.2.** The focal point of the camera may not be the focal point of the person wearing the camera.

- 3.2.3. Body worn video cannot capture tactile responses such as a subject that tenses their muscles or body on contact.
  - 3.2.4. Due to environmental circumstances body worn cameras in some circumstances may see more than a human eye and yet on other occasions the video may capture less.
  - 3.2.5. Video can be slowed down and viewed frame by frame, but this is never how the wearer of body worn cameras would have experienced the situation.
  - 3.2.6. Video cannot capture the physiological or psychological phenomena that a person may experience during a high stress situation. The camera will not suffer from "tunnel vision" or auditory exclusion.
- 3.3.** Body worn camera video should be considered additional\* evidence, but it is only one piece of evidence and is not a substitute for a complete investigation of any incident.

#### **4. MEMBER RESPONSIBILITIES**

- 4.1.** All members assigned to a uniform assignment that are likely to have community member contact, shall wear a body worn camera system. This will include Precincts, Portland Police Bureau Transit officers, GET, YSD, Traffic and K9. CNT (Crisis Negotiation Team. As technology allows, CNT may utilize the live feed feature to allow assisting units and command the ability to monitor in real time. (Exceptions can be made by the RU manager or when working a plain clothes assignment where wearing a body worn camera system would compromise the intended mission of a specific operation). Members of SER/CNT, not actively deployed as a member of SERT/CNT will follow this Directive during on duty status.
- 4.2.** Each unit, division and/or precinct assigned body worn cameras may develop separate SOPs (Standard Operating Procedures) for their specific use to meet unique operational needs. SOPs that deviate from this directive must be approved by the Chief of Police.
- 4.3.** Members will insure their body worn camera system is properly functioning before they begin their shift and that all recorded video from any previous shift is downloaded in the video storage system.
  - 4.3.1. If a member discovers that their body worn camera system is not functioning correctly, they will immediately contact a supervisor to get a replacement.
- 4.4.** Members will turn the camera system power to the "on" position when they begin their shift.
- 4.5.** Members will activate the event record button to initiate an audio/video recording upon receipt of a call for service where a possible crime is in progress or has just occurred. This includes any self-initiated activity where there is likelihood of enforcement action being taken. The camera shall remain in record mode until the completion of the contact. This also includes disturbances of an unknown nature or on calls involving people in a mental health crisis. Members should be cognizant of privacy regulations. This includes discontinuance of body worn camera recordings once the person in mental health crisis is in the custody and care of emergency service provider and is under stable control. Additionally members will not activate

the event record button inside a medical facility when camera recording is likely to violate privacy regulations.

- 4.5.1. The Portland Police Bureau recognizes there are circumstances such as an officer ambush or other immediate threat where the officer may not be able to safely activate the event record button. In these limited circumstances the bureau member should first protect their own life, the life of others, and ask for assistance before considering the activation of the record button.
- 4.5.2. If a bureau member fails to activate the record button due to danger themselves or others they will activate it as soon as it is safe to do so and they will notify a supervisor and document the reason they did not activate the event record button in the appropriate police report.
- 4.6.** Members will give a verbal notification at the earliest possible time when reasonable at the beginning of any encounter to any person they are communicating with during the course of the call, unless the notification would unreasonably impair a criminal investigation. The verbal notification should include information to the community member that the conversation is being recorded.
  - 4.6.1. The Portland Police Bureau recognizes there are circumstances such as an officer ambush or other immediate threat where the officer may not be able to give a verbal notification. In these limited circumstances the Bureau member should first protect their own life, the life of others, and ask for assistance before providing a verbal notification.
  - 4.6.2. If a bureau member fails to provide a notification due to danger themselves or others they will provide a notification as soon as it is safe to do so and they will notify a supervisor and document the reason they did not provide a notification in the appropriate police report.
- 4.7.** Notwithstanding the circumstances described below in Section 5, members will stop recording once their personal involvement with the community member or call for service is completed.
- 4.8.** Members will make sure video is properly tagged for type of call and other event identifying information.
- 4.9.** Members will download their assigned body worn camera video and appropriately tag each video segment before the end of shift. Officers may be granted permission to download and tag video the following day if they are scheduled to work the following day and if no arrests occurred and no force was used in any video segment. Officers will seek permission from an on duty supervisor before holding video for download.
- 4.10.** Members will make sure the use of on body camera is clearly noted in a police report.
- 4.11.** If an arrest is made, the case officer is responsible for documenting all police sources of video that may have captured any image of the suspect.
- 4.12.** The case officer is responsible for ensuring all police video of the incident is made available to the District Attorney in an organized manner. Officers should be aware that the District Attorney must provide copies of all videos to the suspect's defense attorney whether the video seems relevant to the case or not.

**5. MEMBER DISCRETION**

- 5.1.** Due to concerns for privacy, exigency and safety members can use discretion to record under the following circumstances:
- 5.1.1. On calls where the crime has already occurred and the suspect is no longer present.
  - 5.1.2. When at the request of a community member, if it does not compromise an investigation.
  - 5.1.3. Inside of private residences or offices where the suspect is not likely present.
  - 5.1.4. When on break or during casual conversations with members of the community during the normal course of their day.
  - 5.1.5. When interviewing witnesses or victims who do not wish to be recorded.
    - 5.1.5.1. If a member turns a body worn camera event record button to "off" to conduct an interview, the officer shall state the reason they are turning the camera off while the camera is still recording. The member will then turn the camera back on at the conclusion of the interview if necessary. The member shall also document the reason the camera was turned off in the appropriate police report.
  - 5.1.6. When interviewing crime victims in confidential cases, like sexual assault or child abuse.
  - 5.1.7. When conducting and/or contacting an undercover bureau member or an informant.
  - 5.1.8. In hospital settings, unless responding to a call for service that is in progress inside the hospital or treatment facility.
  - 5.1.9. In mental health or drug treatment facilities, unless responding to a call for service that is in progress.
  - 5.1.10. At the conclusion of a critical incident when a member has been assigned crime scene or traffic control responsibilities with no direct involvement in the initial event.
  - 5.1.11. In other situations where community privacy issues may be compromised, however the members should always default to "event record mode" when there is a reasonable likelihood of enforcement action being taken.

**6. SUPERVISOR RESPONSIBILITIES**

- 6.1.** Supervisors will ensure each officer has a working body worn camera prior to taking calls for service.
- 6.2.** Supervisors will re-issue a body worn camera to officers when they become aware of a body worn camera that is malfunctioning or broken.
- 6.3.** After a critical incident, such as an officer involved shooting, in custody death or significant use of force that requires the notification of the Professional Standards Division and/ or the Detective Division, the supervisor will take possession of the involved officer(s) body worn camera system at the earliest safe opportunity to do so. The supervisor will only review or download audio/video at the direction of Detectives.
- 6.4.** Supervisors will ensure that officers download their body worn camera video before the end of shift. Supervisors can authorize an officer to "hold over" the download

process until the next shift as long as no arrest or use of force occurred during the officer's shift.

## **7. PROHIBITED CONDUCT**

- 7.1.** Members are prohibited from copying, sharing, or showing any video taken during the course of their duties as a bureau member outside of a legitimate law enforcement purposes.
- 7.2.** Members will not take "screen shots" or make any reproduction of any video or audio content unless it is for legitimate law enforcement purposes.
- 7.3.** Members will not use bureau issued body worn cameras to capture video or audio while on duty, except for legitimate law enforcement purposes.
- 7.4.** Members should avoid recording at community events, religious ceremonies, schools, or demonstrations unless a there is an articulable reason to believe a crime has occurred or is about to occur or at the discretion of a commanding officer.
- 7.5.** Members will not view video that is unrelated to an incident they are assigned except for training purposes. Members will not edit or delete any video or audio (The Portland Police Bureau Video Storage Software will be set so that officers and supervisors cannot delete or edit any video). This does not apply to members who are responding to a specific request from the District Attorney, City Attorney, or for Public Records Request. These cases will handled by the Records Division or Public Information Officer and in no event will the original video or audio file be edited or deleted unless ordered to do so by a judge with the authority to order such action in this jurisdiction.
- 7.6.** Members shall not record inside of non-custody areas in police facilities, during roll calls, during briefings and/or incident debriefings, or any conversation with a co-worker or supervisor that is outside of the scope of a call for service. Members will not record during drug tests, medical exams, or during privileged conversations with Attorneys or PPA representatives.
- 7.7.** Body Worn Camera Systems will not be deployed to conduct internal investigations. This does not preclude the viewing of already recorded video for an internal affairs investigation.

## **8. PRE-EVENT RECORDING SETTINGS**

- 8.1.** In order to protect private communication with the community and private conversations of bureau members, the pre-event recording settings shall be set by the body worn camera program manager and not altered.
  - 8.1.1. Pre-event recordings will be set to record only video.
  - 8.1.2. Pre-event recordings will be set to record no more than thirty seconds before the camera is activated.

## **9. REVIEWING OF VIDEO/AUDIO**

- 9.1.** Members may review any relevant audio/video from the body camera system before writing a report regarding an incident with the following exception:
  - 9.1.1. Audio/video from a deadly use of force incident or in custody death, where Detectives or Professional Standards have been notified and are conducting an investigation in accordance with Directive 1010.10. The viewing of audio/video in these cases can only be authorized by the

Commander of Detectives or the Captain of Professional Standards or their designee in accordance with Directive 1010.10.

- 9.2. Supervisors and Professional Standards will not review audio/video for the purpose of general performance review, for routine preparation of performance reports or evaluations, or to discover unreported policy violations.
- 9.3. Supervisors and Professional Standards may not randomly review audio/video recordings of any officer.
- 9.4. Supervisors and Professional Standards may review past audio/video related to a specific incident in the following circumstances:
  - 9.4.1. When supervisors are conducting a use of force review to complete an after action.
  - 9.4.2. When supervisors or Professional Standards are conducting a specific review of a call for service where a formal or informal complaint has been assigned or in response to an allegation of a rule violation whether or not it is formally assigned. Inadvertent discovery of other allegations during this specific review shall require the supervisor or Professional Standards to articulate the purpose for expanding the scope of review.
- 9.5. If a supervisor observes a serious directive violation during a review of video they will document the violation observed and forward the memo through channels to the Captain of the Professional Standards Division.

#### **10. RECORD AFTER THE FACT AND FORENSIC RECOVERY OF VIDEO**

- 10.1. In the event that a significant event occurs where a camera was not activated to record, there is a possibility that a record after the fact or forensic video recovery can be performed (This only applies to body worn camera systems that have the pre-event recording or a buffering feature).
- 10.2. Record after the fact or forensic video recovery can only be authorized by the Captain of Professional Standards or the Commander of the Detective Division.
- 10.3. The Captain of Professional Standards, the Commander of the Detective Division, the Body Worn Camera Program Manager or their designees are the only personnel authorized to attempt the record after the fact or forensic video recovery. The product vendor may assist if needed.

#### **11. RETENTION PERIODS**

- 11.1. The retention period will be set by the Chief of Police, Records Manager, and City Attorney in accordance with current laws and court rulings.
- 11.2. 180 days — All calls for service resulting in community member contact. This is to ensure that a video record will be maintained in case a community member wishes to file a complaint or compliment.
- 11.3. 180 days — All calls for service that are medical in nature or where a community member was suffering from a mental health crisis. These videos will be tagged "confidential" and will be locked from viewing for all members of the bureau with the exception of BHU, IAD or IPR. An officer or district attorney can be issued a copy for a civil commitment hearing.

- 11.4 30 months- All videos that capture any use of force.
- 11.5 30 months-All videos that are flagged by IAD or IPR for internal investigations.
- 11.6 Video may be retained as long as necessary to defend the city when civil litigation has been initiated. This includes the appeals process.
- 11.7 7 years- All misdemeanor crimes.
- 11.8 10 years- All felony crimes, that are not Measure 11.
- 11.9 Indefinite- All measure 11 crimes.

## **12. PROGRAM MANAGER**

- 12.1. The Body Worn Camera System Program Manager will manage the body worn camera program. This includes:
  - 12.1.1. Setting video retention periods in accordance with bureau policy, state laws, court rulings, advice from the City Attorney and advice from the District Attorney.
  - 12.1.2. Ensure there are enough camera systems for all designated officers.
  - 12.1.3. Ensure all members wearing a body worn camera are properly trained.
  - 12.1.4. Set video database system access levels for officers, supervisors, and administrative personnel at the appropriate level by job function.
  - 12.1.5. Maintain warranties and service contracts with vendor.
  - 12.1.6. Ensure members who respond to public records requests are properly trained to perform video and audio redaction functions.
  - 12.1.7. Coordinating with ITD/BTS to perform installs, software updates and to respond to system outages.
  - 12.1.8. Monitoring the system to ensure storage capacity is sufficient.
  - 12.1.9. Auditing the system to remove videos that are no longer needed due to case adjudication. This will be done with consultation of the District Attorney.

## **13. TRAINING**

- 13.1. All members who are issued a body worn camera system must receive training. The training shall include the use of the equipment and the policy that governs its use, including current legislative law and court holdings.

## **14. PUBLIC RECORDS REQUESTS**

- 14.1. Public records requests will be handled by the records division in consultation with the PIO, The Public Records Manager and City Attorney. All faces will be rendered unrecognizable prior to a public records release.
- 14.2. The fees for fee for public records will be set by the Records Division Manager in accordance with state law.

### **14.3.**

## **15. PUBLIC RELEASE OF VIDEO BY THE CHIEF OF POLICE**

- 15.1. Nothing in this directive prohibits the Chief of Police or their designee from releasing redacted video to the public in the case of a critical incident where the public interest supports such a disclosure under ORS 192.501(38).
- 15.2. The Chief or their designee will inform the bureau member(s) prior to publically releasing a video in which their image or voice was captured.

**15.3.** A video disclosed under this section must, prior to disclosure, be edited in a manner as to render the faces of all persons within the recording unidentifiable.

**16. HISTORY**

16.1.1. Established July 1, 2015