

Body-Worn Cameras

421.1 PURPOSE AND SCOPE

Body-worn cameras (BWC) are an effective law enforcement tool that can enhance the understanding of interactions between officers and the public. Body-worn cameras provide additional documentation of police-public encounters and can be an important tool for collecting evidence and maintaining public trust.

421.2 DEFINITIONS

Body-worn cameras - camera systems designed to be worn by police officers to capture Digital Multimedia Evidence (DME).

Digital Multimedia Evidence (DME) - DME consists of all digital recordings, to include but not limited to audio, video, photographs, and their associated metadata.

Metadata - includes any digital identifiers that are captured as part of the actual recording (e.g., date/time, GPS coordinates, incident category, etc.), plus data entered by the officer.

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

421.3 POLICY

This policy is intended to provide officers direction on when and how to use body-worn cameras. Use of body-worn cameras for any purpose other than in accordance with this policy is prohibited without the written approval of the Chief of Police or authorized designee.

This policy does not apply to lawful surreptitious audio/video recording interception of communications for authorized investigative purposes or to mobile audio/video recordings (see the Investigation and Prosecution and Use of Audio Recorders policies).

421.4 MEMBER RESPONSIBILITIES

- (a) BWCs shall be worn by all officers and supervisors working a uniformed assignment in patrol operations. Patrol operations include the Traffic Safety Division and K9 Unit. School Resource Officers (SROs) and the SRO supervisor shall also wear BWCs.
- (b) Other uniformed personnel not assigned to the patrol division or SRO program may wear a BWC if approved by the Chief of Police or authorized designee. Any sworn member who does not routinely wear a BWC will check with the on-duty supervisor for availability of a BWC.
- (c) Prior to using a body-worn camera, officers shall receive department-approved training on the proper operation and care and the department's policy with respect to the use of the body-worn camera. 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 policies or equipment.

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- (d) Officers shall wear body-worn cameras on the torso and in a position designed to produce an effective recording. Motorcycle officers may wear the department-approved alternative style body-worn camera equipment above the torso or as otherwise directed.
- (e) Officers shall inspect and test body-worn cameras prior to each shift to verify proper functioning (including a fully charged battery), and shall notify their supervisor of any problems. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be assigned.
- (f) Officers shall only use BWC equipment issued by the department. Personnel shall not remove, dismantle or tamper with any hardware/software component or part of the BWC. No personally-owned body-worn cameras shall be used.
- (g) In the event that a body-worn camera is lost, upon discovery, the officer shall immediately notify his/her supervisor.
- (h) Officers shall only use body-worn cameras in conjunction with official department duties.

421.5 SUPERVISORY RESPONSIBILITIES

Supervisors shall ensure officers are equipped with BWC devices prior to taking calls for service. Supervisors may review a sampling of officers BWC recordings to ensure the equipment is functioning properly and officers are using devices in accordance with policy, and to identify any areas which require additional training or guidance. It is not the intent of the department to review recordings for the purpose of general performance review, or to discover policy violations.

If during a BWC review a supervisor inadvertently discovers a policy violation, and depending on the type of policy violation, the supervisor will either initiate a performance discussion with the involved member or initiate a professional standards review.

421.6 OPERATION

421.6.1 ACTIVATION

Body-worn cameras shall be worn in the "on" buffering mode (but not activated) during routine field operations, except those circumstances where recording is already prohibited.

Unless there are exigent circumstances or concerns for the safety of the member or any other person, or otherwise provided in this policy, 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).

BWCs shall be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.

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- (c) Self-initiated activity in which a member would normally notify dispatch.
- (d) 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) has occurred.)

BWCs should be activated in the following situations:

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

At no time is a member expected to jeopardize his/her safety in order to activate the equipment. The BWC should, however, be activated in situations described above as soon as practicable.

If an officer fails to activate the camera upon initial contact, the officer should verbally record the reason on the BWC recording once the BWC recording is activated, and the officer will document the reason for the activation anomaly in their report narrative.

421.6.2 NOTIFICATION OF RECORDINGS

Members shall announce at the beginning of an interaction (or as soon as practicable) that the conversation is being recorded. This notification should be included in the recording when possible. Exceptions can be made when the announcement may impair a criminal investigation or jeopardize officer safety or the safety of any other person. Exceptions also apply to situations, such as a public meeting or rally. (ORS 133.741; ORS 165.540(2) through (7) and ORS 133.726).

421.6.3 PRIVACY CONSIDERATIONS

Community members do not have a reasonable expectation of privacy when talking with a police officer during the scope of the officer's official duties, even when contact occurs in a private residence. However, members should remain sensitive to the dignity of all individuals being recorded and exercise 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 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, presence of child pornography)

Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer an issue unless the circumstances no longer fit the criteria for recording. The request to turn the body-worn camera off should be recorded, as well as the officer's response, and included in the report narrative.

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421.6.4 JUVENILES

It is recognized that recordings of juvenile offenders will occur by the use of body-worn cameras when officers are responding to calls for service or during the course of an investigation. Officers shall protect recordings of juveniles captured with the body-worn cameras the same as still photographs of juveniles. If an officer has a need to use body-worn camera recordings of juvenile offenders as part of an investigation, the officer shall comply with state or any other applicable law.

421.6.5 DEACTIVATION

Officers shall continue recording until they announce on camera that they are deactivating their BWC. Deactivation of the body-worn camera shall occur when:

- (a) The event has concluded. An incident is considered complete when a reasonable person would consider the incident to have reached a logical ending.
- (b) Victim and/or witness contact has concluded.
- (c) All persons stopped have been released.
- (d) An arrestee has been placed into a vehicle to be transported to a detention facility.
 - 1. At the option of the officer who has an arrestee in their vehicle, the officer may choose to keep the officer's body-worn camera activated until custody of the arrestee is transferred to the detention facility.
- (e) In an extended situation where the officer has reason to believe there is no value in collecting further data (e.g., traffic control at a crash scene).
- (f) Technical difficulties render the system inoperable.

If the BWC is deactivated prior to the completion of an event, the officer shall verbally record the reason on the recording and document the reason in the report narrative.

421.6.6 MUTE FEATURE

Officers may use the mute feature on their BWC in lieu of deactivating the camera. The purpose of the mute feature is to maintain the continuation of a video recording while temporarily pausing the audio recording. The mute feature shall only be used in the following circumstances to protect confidential and sensitive information:

- (a) Confidentiality of law enforcement conversations during tactical situations.
- (b) Confidentiality of administrative conversations between supervisors, officers, and/or recruits during calls for service. Examples include, but are not limited to:
 - 1. Police tactics
 - 2. Department policy
 - 3. Legal considerations
 - 4. Sensitive training discussions

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421.6.7 RECORDING RESTRICTIONS

Officers should restrict recording to areas and persons necessary in order to obtain evidence and information relevant to the incident and should attempt to minimize collateral intrusion to those not involved.

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

- (a) Interviews with child abuse victims.
- (b) Interviews with sexual assault victims.
- (c) In any location where individuals have a reasonable expectation of privacy, such as a restroom, break room, or fitness room.
- (d) When an officer would be recording a patient during a medical, healthcare provider or psychological evaluation by a clinician or similar healthcare professional, or during treatment. When recording in hospitals or other healthcare 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.
- (e) Communications made in a psychiatric facility, unless responding to a call involving a suspect who is thought to be present in the facility.
- (f) Encounters with undercover officers or confidential informants.
- (g) When an officer is engaged in conversations with individuals with whom the officer is in a privileged relationship (e.g., spouse, attorney, police peer counselor, labor representative, clergy, healthcare provider, etc.).
- (h) Casual communications with other police personnel.
- (i) When an officer is on break or is otherwise engaged in personal activities.
- (j) Inside the police facilities during roll calls, briefings and/or incident debriefings, in-service training, and/or departmental meetings.
- (k) Places of worship and/or religious ceremonies.
- (l) Community policing activities.

421.6.8 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 an explosive device may be present.

421.6.9 DOWNLOADING AND TAGGING VIDEO

When practical, all files from body-worn cameras shall be securely downloaded no later than the end of the officer's on-duty work shift. Each file shall be categorized, tagged, and contain information related to the date, body-worn camera identifier, assigned officer, and case number.

Members should flag any incident in which all or some of the recorded data should not be released due to its sensitive nature (e.g., sensitive intelligence data, revealing identity of confidential

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informant, a victim advocate is recorded, sensitive victim cases) 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.

421.7 REPORTING REQUIREMENTS

Members shall document the existence of a recording in any report or other official record of the contact, including any instance where the body-worn camera was not activated, the equipment malfunctioned, or the member deactivated the recording.

421.8 REVIEW AND USE OF RECORDINGS

421.8.1 OFFICERS

Officers are allowed to review the recordings from their body-worn cameras. To help ensure accuracy and consistency, officers are encouraged to review 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. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Prior to testifying in a court case where recorded data will be offered as evidence, officers are encouraged to review the recording.

Officers shall not edit, alter, erase, duplicate, copy, share (other than individuals with a right to know), or otherwise distribute in any manner body-worn camera images and information. Requests for any of these shall be made through the System Administrator, Chief of Police, or the authorized designee.

- (a) Officers 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.
- (b) Viewing of DME shall be limited only to individuals on a right to know basis and only for the purpose of processing a case or when related to department matter.

421.8.2 ADMINISTRATIVE INVESTIGATIONS

Supervisors and Professional Standards personnel, and legal representatives of employees subject to professional standards investigations, may access DME for administrative investigations and reviews. The scope of the review of DME should be limited to the specific complaint against the officer. Inadvertent discovery of other allegations during this review shall require the supervisor to articulate the purpose of expanding the scope.

Audio and video recordings from body-worn cameras may be viewed by an involved employee and/or their legal representative during their representation of an employee. Copies of audio and/or video recording associated with the legal representation matter will be provided to an

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involved employee and/or their legal representative during their representation of an employee in accordance with the collective bargaining agreement and/or as allowed by law.

421.8.3 INVESTIGATIONS DIVISION

The Investigations supervisor may review DME relevant to an investigation being conducted. The Investigations supervisor may also authorize a detective to review DME relevant to that detective's investigation.

421.8.4 TRAINING

Recordings from body-worn cameras may be shown for training purposes upon completion of a criminal case or administrative case. All such use shall be pursuant to the written authority of the Services Captain.

Officers shall be provided with at least 14 days written notice if recordings intended for use for training purposes were either made by them or captured their image or voice. If an involved employee/individual objects to the release of the video, a determination of whether or not to release the video will be made by the Chief of Police or authorized designee.

421.8.5 OTHER REQUESTS

Recorded files may also be viewed:

- (a) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (b) By media personnel with permission of the Chief of Police or the authorized designee.
- (c) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release policy.
- (d) Video may be shown to and/or viewed by members of the public when appropriate and for legitimate police purposes with supervisory approval or by supervisory personnel (e.g., complaint reviews or parental requests of their minor children on video).

All recordings shall be reviewed by the Records Supervisor or authorized designee prior to public release (see the Records Release/Public Information Requests section of this policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

Except as set forth in this policy, or as allowed by state or federal law, non-department personnel shall not be allowed to review the recordings without the written consent of the Chief of Police or the authorized designee.

421.8.6 USE OF FORCE

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

- (a) Have the option of reviewing the recordings in the presence of the officer's attorney or labor representative; and

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- (b) Have the right to review recordings from other body-worn cameras capturing the officer's image or voice during the underlying incident and/or events that are the subject of the investigation.

421.9 CRITICAL INCIDENTS

Following an officer-involved shooting, use of deadly force, or other critical incident, and when safe and practical to do so:

- (a) Body-worn cameras will be collected by the on-scene sergeant or officer in charge (OIC) and will be immediately powered off to prevent viewing or uploading.
- (b) Sergeants and officers will only review the BWC video when exigent circumstances exist, such as an officer being injured or in order to obtain identifying suspect information or other pertinent information.
- (c) Involved officers' cameras will be turned over to the County Major Crimes Team (MCT) for processing. If the involved officers are Tualatin officers wearing a body-worn camera, the MCT coordinator will work with Tualatin Police Department's Body-worn Camera System Administrator or authorized designee to download any body-worn camera video pertaining to the incident.
- (d) Any body-worn camera videos that contain video of a critical incident or officer-involved shooting shall be immediately categorized as "restricted" by the System Administrator once the video is downloaded.
- (e) The MCT Coordinator will work with the System Administrator to provide software access to MCT detectives so they are able to review the video(s).
- (f) Officers involved in a shooting will have the opportunity to review only their video before giving a formal statement to the MCT. The MCT and Tualatin Police Officer's Association (TPOA) will coordinate an appropriate time for involved officers to view the video.

421.10 HANDLING OF DIGITAL MEDIA EVIDENCE

- (a) Department-owned body-worn camera equipment and all data, images, video and metadata captured, recorded, or otherwise produced by the equipment is the property of the department. The personal use of information recorded by body-worn cameras shall only be used with the written approval of the Chief of Police or authorized designee.
- (b) The Records Supervisor and/or the Property and Evidence Technician will be the System Administrator(s) for the data storage system. All access and activity on the data storage system is logged and subject to audit at any time. Personnel authorized under this policy may only view data files according to the provisions of this policy or as designated by the System Administrator(s), the Chief of Police or authorized designee.
- (c) Any contract with a third-party vendor for data storage of recordings from body-worn cameras must state that all recordings are the property of the Tualatin 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 Tualatin Police Department (ORS 133.741).

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- (d) All files will be stored and maintained in a secure department-approved location.
- (e) Recordings from body-worn video cameras shall not be analyzed with facial recognition or other biometric matching technology (ORS 133.741).

421.11 RETENTION REQUIREMENTS

All files from body-worn cameras shall be securely stored in accordance with state records retention laws and will be purged after no longer useful for purposes of training, or for use in an investigation or prosecution (including appeals), or for use in resolving a claim or pending litigation, or disciplinary investigation. In capital punishment prosecutions, files shall be kept until the alleged offender is no longer under control of a criminal justice agency.

All recordings shall be retained for a period consistent with the requirements of the state's public records retention laws, but in no event for a period less than 180 days. Recordings no longer needed for a court proceeding or an ongoing criminal investigation shall not be retained for more than 30 months (ORS 133.741).

The retention period begins from the date the body-worn camera recording was labeled or categorized. Department administrators, in addition to the recording officer, may label or categorize recordings for retention. Officers will periodically be directed by the System Administrator(s) or designee to label or categorize any DME which had not previously been labeled or categorized.

421.12 RECORDS RELEASE/PUBLIC INFORMATION REQUESTS

Any department member who receives a request for records shall route the request to the Records Supervisor or the authorized designee. (Refer to Policy 804 Records Maintenance and Release.) Such recordings may only be disclosed under the conditions provided under Oregon State Law (ORS 133.741) that includes the following guidelines related to BWC recorded data requests:

- (a) The request must be for an event for which there is public interest.
- (b) The request must be for an approximate time or event.
- (c) The request must be tailored to the relevant video of the event.
- (d) All faces must be rendered unidentifiable (blurred) prior to release.

A reasonable attempt will be made by the releasing person or designee to notify any involved employee(s) prior to release of the information. Officers shall be provided with at least seven (7) calendar days written notice of any public requests made to review DME from their body-worn cameras.

421.13 ANNUAL REVIEW

An evaluation of the Body-Worn Camera program and policy review will be conducted annually by the Body-worn Camera System Administrator or authorized designee.