



Approved:  
*Chief Marcia Harnden*

Subject:

# 633. Digital Media Recording

Effective:  
December 4, 2017

CALEA Standards: 41.3.8, 83.2.2

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Revised:  
January 6, 2025

## 633.1: PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices, including body-worn cameras and mobile audio-video systems, by members of this department while in the performance of their duties.

Recording devices are an effective law enforcement tool that can reduce violent confrontations and complaints against officers. Body-worn cameras provide additional documentation of police-public encounters and may be an important tool for collecting evidence and maintaining public trust.

This policy is intended to provide officers with instructions on when and how to use body worn cameras so that officers may reliably record their contacts with the public in accordance with the law.

This policy does not apply to lawful surreptitious audio/video recording interception of communications for authorized investigative purposes.

### 633.1.1: DEFINITIONS

**Body-Worn Camera (BWC)** - Video cameras worn upon a law enforcement officer's person that record the officer's interactions with members of the public while the officer is on duty.

**Mobile Audio Video (MAV) or In-car camera system** – Synonymous terms which refer to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at minimum, a camera, microphone, recorder, and monitor.

**Activate** – Any process that causes the BWC or MAV to transmit or store video or audio data in an active mode.

**MAV Technician** – Personnel certified or trained in the operational use and repair of MAVs, duplicating methods, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures.

## 633.2: POLICY

**It is the policy of this department that officers shall activate recording devices when such use is appropriate to the proper performance of their official duties, where the recordings are consistent with**

this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations.

### 633.3: ADMINISTRATION

- a. This Department has adopted the use of BWC and MAV devices to assist in documentation of police contacts.
- b. The Department recognizes that video images cannot always show the full story, nor do video images capture an entire scene, the environmental conditions, surrounding circumstances, and safety concerns that officers constantly assess.
- c. The use of BWCs and MAVs do not reduce the requirement to provide thorough written documentation of an incident.
- d. Persons reviewing recordings must also be cautious before conclusions are reached about what the recordings show.

### 633.4: USE OF RECORDING DEVICES

- a. BWC devices shall be worn by sworn uniformed members who are working enforcement assignments and other personnel as assigned by this Department. Members who are assigned to wear BWC devices must use the equipment unless otherwise authorized by supervisory personnel.
- b. Members shall use only BWCs and/or MAVs issued by this Department. The BWC and MAV equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Department.
- c. Members who are assigned BWCs and MAVs and any supervisor of these members, must complete Department-approved and/or provided training program to ensure proper use and operations prior to using BWCs and MAVs.
  - 1) Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration, and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
- d. Members will use their assigned BWC and/or MAV with reasonable care to ensure proper functioning.
  - 1) Equipment malfunctions shall be brought to the attention of the members' supervisor as soon as possible so that a replacement unit may be issued.
- e. Members shall inspect and test the BWC prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems.
- f. Members will wear the BWC on the front of their uniform no lower than the midline of the member's torso and in a location that captures a good unobstructed view of what the officer is facing.

- g. All files shall be securely downloaded periodically and no later than the end of each shift.
  - 1) Members shall ensure that each downloaded file is correctly labeled once it is uploaded to the media storage server.

#### **633.4.1: REVIEW OF RECORDINGS**

- a. Members shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC or MAV recordings without prior written authorization and approval of the Chief of Police or his/ her designee.
- b. Members are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
  - 1) Prior to using any BWC or MAV footage for training purposes, the Department will ensure that any associated criminal or administrative matters have concluded and will render unidentifiable the faces of all officers and persons captured in the recording.
  - 2) A supervisor will notify the member(s) in the recording that the recording will be used in training.
- c. Members shall note in incident, arrest, and related reports when recordings were made during the incident in question. BWC and MAV recordings are not a replacement for written reports.
- d. When preparing written reports, members should review their recordings as a resource to assist in preparing accurate and consistent reports.
  - 1) With prior supervisory approval, a member may review another member's BWC or MAV recording as a resource to assist in preparing accurate and consistent reports.
  - 2) Members should not use the fact that a recording was made as a reason to write less detailed reports.
  - 3) Field Training Officers may use their trainee's BWC for training and documentation purposes.
  - 4) Members shall not retain personal copies of recordings.
- e. Members may review recordings for general recollection of an event, which includes review of other members' recordings from the same event.
- f. Members may review recordings from an event prior to attending court.
- g. Members may review recordings from critical incidents with command staff approval.
- h. If a member is suspected of wrongdoing, involved in an officer-involved shooting, critical incident, or other serious use of force, the member may review any BWC and/or MAV recording that captures the member's actions in the presence of the member's attorney or labor representative prior to writing a report or providing a statement.

- i. Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Chief of Police or his/ her designee in accordance with state record retention laws. All requests and final decisions shall be kept on file.

#### **633.4.2: HOW AND WHEN TO USE RECORDING DEVICES**

- a. Members shall activate the BWC and/or MAV whenever the member 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 and remain activated until the contact ends, unless there are exigent circumstances or concerns for the safety of the member or any other person or other reasonable privacy concerns ([ORS 133.741](#)).
- b. At the beginning of the interaction, members shall announce that the conversation is being recorded, unless the announcement would jeopardize the officer or any other person; would unreasonably impair a criminal investigation; pursuant to a court order; or any of the limited exceptions in [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) apply (ORS 165.540)).
- c. Members have the discretion to turn off the camera during conversations with sensitive crime victims/witnesses and members of the community who wish to report or discuss criminal activity, but members should be mindful of the protections a video would provide against unwarranted accusations of misconduct.
- d. In locations where individuals have a reasonable expectation of privacy, such as a residence, individuals may decline to be recorded unless the recording is being made pursuant to an arrest or search of the residence or the individuals.
- e. Members have no obligation to stop recording in response to a citizen's request if the recording is pursuant to an investigation, arrest, lawful search, or the circumstances clearly dictate that continued recording is necessary.
- f. Any decision to turn off the camera and reasons why shall be documented in the written report.
- g. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy (refer to section 633.6).
- h. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated.

#### **633.4.3: DEACTIVATION OF RECORDING DEVICE**

Officers will deactivate their BWC and/or MAV devices when:

- a. The event has concluded;
- b. Victim and/or witness contact has concluded;

- c. All persons stopped have been released;
- d. Once an arrestee has been placed into a vehicle to be transported to a detention facility. However, the officer transporting the arrestee to the detention facility shall keep the officer's body-worn camera activated until custody of the individual is transferred to the detention facility.

### **633.5: RESTRICTIONS ON USE**

- a. BWC and MAV devices shall be used only in conjunction with official law enforcement duties. The BWC and/or MAV shall not be used to record:
  - 1) Communications with other police personnel without their knowledge during non-enforcement related activities;
  - 2) Encounters with undercover officers or confidential informants;
  - 3) When on break or otherwise engaged in personal activities;
  - 4) In any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room, or break room;
  - 5) Interactions with individuals with whom the officer is in a privileged relationship (e.g., spouse, attorney, police peer counselor, labor representative, clergy, health care provider, etc.);
  - 6) Communications made in a psychiatric facility, unless responding to a call involving a suspect who is thought to be present in the facility.
- b. Recordings from body-worn video cameras shall not be analyzed with facial recognition or other biometric matching technology (ORS 133.741).
- c. When recording in hospitals or other medical facilities, officers should be careful to avoid recording persons other than the suspect.

### **633.5.1: EXPLOSIVE DEVICES**

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.

### **633.6: SUPERVISOR RESPONSIBILITIES**

- a. Supervisors should determine if vehicles with non-functioning MAV systems should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made, including notification of the Communications Center.
- b. At reasonable intervals, supervisors should validate that:

- 1) Beginning and end-of-shift procedures are being followed for BWC and MAV devices;
- 2) Logs reflect the proper chain of custody, including:
  - A. The tracking number of the MAV or BWC system media;
  - B. The date it was issued;
  - C. The law enforcement operator or the vehicle to which it was issued;
  - D. The date it was submitted;
  - E. Law enforcement operators submitting the media;
  - F. Holds for evidence indication and tagging as required.
- c. When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor, MAV technician or crime scene investigator properly retrieves the recorded media.
  - 1) The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.
- d. It is not the intent of the agency to review BWC recordings for the purpose of general performance review, for routine preparation of performance reports or evaluation, or to discover policy violations.
- e. Supervisors and internal affairs personnel may access BWC and MAV recordings for administrative investigations.
- f. Other than periodic supervisory reviews to ensure that equipment is functioning properly and the BWCs are being used appropriately, the scope of the review of BWC recordings should be limited to the specific complaint against the officer.
- g. Inadvertent discovery of other allegations during this review shall require the supervisor to articulate the purpose of expanding the scope.

### **633.7: RETENTION OF DIGITAL RECORDINGS**

- a. All BWC recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule, but in no event for a period of less than 180 days.
- b. Recordings made from BWCs which are no longer needed for a court proceeding or an ongoing criminal investigation shall not be retained for more than 30 months (ORS 133.741).
- c. MAV recordings shall be retained according to the approved records retention schedule.

**633.7.1: RELEASE OF DIGITAL RECORDINGS**

Release of recordings made by BWCs or MAVs used by members of this Department shall fall under the following restrictions ([ORS 192.345](#)):

- a. Recordings that have been sealed in a court's record of a court proceeding or otherwise ordered by a court not to be disclosed may not be disclosed.
- b. A request for disclosure must identify the approximate date and time of an incident for which the recordings are requested and be reasonably tailored to include only that material for which a public interest requires disclosure.
- c. A video recording disclosed under this subsection must, prior to disclosure, be edited in a manner as to render the faces of all persons within the recording unidentifiable.

**633.7.2: STORAGE OF DATA BY VENDORS**

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 Albany 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 Albany Police Department (ORS 133.741).

**633.8: USE OF RECORDINGS FOR SOCIAL MEDIA**

Recordings may be used for social media purposes by the Albany Police Department following ORS 192.345 and the following restrictions:

- a. The recording is not associated with an active case;
- b. The recording does not mock the subjects in the recording;
- c. The recording shall render the faces of all persons within the recording unidentifiable; and
- d. The recording shall not be used for social media purposes without prior approval from a Captain or above.