

# Body-Worn Cameras

## 422.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of body-worn video cameras (BWC)/portable audio/video recording devices by members of the Olympia Police Department while in the performance of their duties. This policy does not apply to the interception of conversations for lawfully authorized investigative purposes under RCW 10.109.010. This policy does not apply to spontaneous statements made in the field or in facilities that could not have been reasonably predicted.

Body worn camera systems will be used to build public trust, gather evidence, and enhance member safety. They are not intended to replace effective first-level supervisory practices. Body camera, portable audio/video recording devices, and MAV systems use shall be in accordance with applicable law. In the event of future changes to applicable law, this policy may be reviewed and revised following standard department procedure.

### 422.1.1 DEFINITIONS

**Body -worn video camera (BWC)** - System that captures audio and video signals that is capable of being worn on an member's person.

**Portable Audio/Video Recording Devices** – Department-issued systems that capture audio and/or video.

**Mobile Audio Video (MAV) system** - Refers 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.

## 422.2 POLICY

The Olympia Police Department provides members with access to body-worn video cameras for use during the performance of their duties. All members who are provided with a BWC by the department shall use and wear it consistent with this policy. Members are prohibited from using privately-owned BWCs while on-duty. This policy is intended to more effectively fulfill the department's mission and to ensure these systems are used properly, safely, securely, and efficiently.

## 422.3 GENERAL OPERATING PROCEDURES

Prior to going into the field, each member who uses a BWC will be properly trained and equipped with a BWC to record audio and video in the field to include familiarization with this policy. At the end of each shift, each member will follow the established procedures for providing to the department any recordings or used media and any other related equipment. Incidents that occur after the shift may be downloaded the following shift with approval of the supervisor.

At the start of their shift and before going into the field, the member should test the BWC in accordance with the manufacturer's specifications and department operating procedures and training. If the BWC is malfunctioning or not working, the member shall notify their supervisor.

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Members are responsible to ensure that the BWC remains charged and operational during their entire shift. Members will wear the BWC securely positioned to capture interactions from a forward-facing direction.

The member shall inform any person, when reasonably safe and feasible, that an audio and video recording is being made and shall make the attempt to ensure said advisement is recorded. Members shall make a reasonable effort to ensure that non-English speaking persons, those with limited English proficiency, or hearing-impaired persons understand that they are being recorded.

A member may encounter a situation in public that is rapidly evolving, dynamic, and involving a group of persons. In these situations, it may not be feasible to advise all parties present that they are being audio and video recorded because of the dynamic environment. In a group, public setting, where the law recognizes minimal expectation of privacy, the member should advise the primary contact and all other parties as time and circumstances allow.

When interviewing crime victims or witnesses in a non-dynamic situation, members shall ask the individual if they want their identity to remain confidential for the purposes of public records requests: "Do you want your identity to remain confidential for public records purposes?" This question and answer should be recorded.

Video will be uploaded to the video storage system. Members shall ensure video from a BWC is uploaded regularly. Members shall classify each video in the manner prescribed during their training.

Members shall document the use of BWC during an incident in which they write a report. If a citation was issued, the proper notation shall be made in the SECTOR citation that the incident was recorded.

### 422.3.1 ACTIVATION OF THE BWC

This policy is not intended to describe every possible situation in which the BWC may be used, although there are many situations where its use is appropriate and expected.

Subject to exceptions contained in this policy, BWC devices will be powered on and in sleep mode status at all times while members are on-duty. They will be placed in sleep mode prior to entering police department facilities and taken out of sleep mode upon exiting police department facilities. Cameras may be powered off while members are off duty.

The member shall make every reasonable effort to activate the BWC in any contact where a member is involved in a law enforcement function. These contacts include, but are not limited to:

- (a) Self-initiated law enforcement activity.
- (b) Any contact that becomes adversarial after the initial contact in a situation that would otherwise not be recorded (may include phone contacts).
- (c) Any dispatched call for service resulting in in-person contact that does not meet an exception as described in this policy.

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- (d) Any other circumstances that the member reasonably believes that a recording of a contact or event would be appropriate.

At no time is a member expected to jeopardize their safety in order to activate a BWC. The BWC should be activated in required situations prior to exiting the patrol car or as soon as practicable.

#### 422.3.2 DEACTIVATING THE BWC DURING AN INCIDENT

Consistent with this policy, once started, BWC recordings should continue without interruption until contact with any involved member of the public ends. However, members may deactivate or turn off the BWC during an incident in the following circumstances:

- (a) Members have the discretion to keep their cameras turned off during conversations with crime witnesses and members of the community who wish to report or discuss criminal activity.
- (b) Consistent with this policy, members may deactivate the BWC during an incident when exchanging information with other members or when engaged in an operational or tactical discussion with other members. If the BWC is deactivated during a contact to exchange information or discuss operation details with another member, the member shall state the reason the BWC is being turned off and the member should promptly reactivate the BWC before resuming duties related to the incident.
- (c) Consistent with the Response to Bomb Calls policy, members may deactivate their BCW or leave their BWC outside of the perimeter when investigating bomb threats or suspicious packages under the same circumstances where utilization of electronic devices capable of transmitting and receiving radio frequency energy could potentially cause a detonation. Members must immediately activate their BWC when safe to do so.
- (d) No member will be subject to discipline for failing to activate a camera for any reason for the first month or 16 shifts, whichever occurs later, after the employee is assigned to wear a BWC or drive a vehicle equipped with an MAV system. Evidence of a failure to activate a BWC or MAV system during the amnesty period shall not be used or considered for discipline. This amnesty period will apply again in the event a member who previously was assigned to an assignment with a BWC or MAV system but is off duty for an extended period of four months or more restarts the amnesty period.

After the conclusion of the amnesty period, members will be subject to progressive disciplinary action for failure to activate the BWC as prescribed by this policy.

Anytime a member turns off the camera prior to the conclusion of an interaction or contact, the member shall document the reason for turning the BWC off on camera and in their police report.

#### 422.3.3 RECORDING SUSPECT AFTER ARREST

Consistent with RCW 10.109.010, before a member conducts a custodial interrogation of an arrested suspect with a BWC, the member shall:

- (a) Inform the suspect that they are being recorded.
- (b) State the time the recording begins and ends.

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- (c) Record the reading of the Miranda warnings.

#### 422.3.4 SURREPTITIOUS RECORDING

Washington law prohibits any individual from surreptitiously recording any conversation, except as provided in RCW 9.73.040, RCW 9.73.090, RCW 9.73.210, and RCW 9.73.230.

#### 422.3.5 PROHIBITED USE

Members should not activate or use the BWC to record when exchanging information with other members, during breaks, preparing written documents, and when not in service or actively on patrol.

Members should not activate or use the BWC to record conversations with confidential informants and undercover members to protect confidentiality and member safety.

Members should not activate or use the BWC in places where the reasonable expectation of privacy exists (e.g., bathrooms or locker rooms) unless in the performance of official duties.

No member of the Department may surreptitiously record any conversation of any other member of this Department except with a court order and when authorized by the Chief of Police or authorized designee for the purpose of conducting a criminal investigation.

Members should not activate or use the BWC during training, excluding patrol field training (PTO), without the approval of the training supervisor and all involved participants.

Members of the Department are prohibited from using a Department BWC for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

All recordings shall be retained by the Department consistent with state law.

#### 422.3.6 RECORDING IN A PRIVATE RESIDENCE AND RESPONDING TO CIRCUMSTANCES WITH UNWILLING COMMUNICANTS

It is permissible to record in a private residence and, absent exigent circumstances or when a contact becomes adversarial, members shall make reasonable attempts to inform any person being recorded that a recording is being made and shall ensure said advisement is recorded.

When recording victim or witness interviews, the members shall ask the individual in language similar to: "Do you want your identity to remain confidential?" This question should be recorded and noted in the member's report.

If a community member objects to being recorded, the member may elect to record the encounter despite the objection. Since conversations with members are not considered private under Washington law, there is no requirement that a member turn off the camera for a community member who objects to having the interaction recorded.

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#### 422.3.7 RECORDING IN A MEDICAL FACILITY

Whenever practical, recording in a medical facility shall consist only of those persons pertinent to the investigation. It is highly recommended that victim interviews be conducted in an area where personal privacy can be protected.

#### 422.3.8 RETENTION OF RECORDINGS

All recorded imagery will be stored and retained by the Department in accordance with the law and destroyed at the conclusion of any retention period required by law. The retention may be extended at the request of a member.

Any time a member records a contact that constitutes evidence in a criminal case, the member shall mark the file within the video software program in accordance with Department procedures to ensure the recording is retained for evidentiary purposes and document the existence of the video in their case report.

Members should upload the files by the end of their shift and any time the storage capacity is nearing its limit. If the upload is going to incur overtime, the member shall report the issue to their supervisor.

#### 422.3.9 ACTIVATION OF LIVE VIEW

The use of the "live view" feature shall be activated by another department member when there is an emergency involving the member and where the use of this feature is beneficial in locating or providing aid to the member. The use of live view may be activated when a tactical advantage can be articulated. The use of live view will be included in the electronic log reference below.

#### 422.3.10 REVIEW OF BWC RECORDINGS

All recording media, recorded images, and audio recordings are the property of the Department. Dissemination outside the agency is strictly prohibited, except to the extent permitted by or required by law. Agency personnel shall not access recorded data for personal use.

Agency personnel shall not upload recorded data onto public and social media websites without expressed permission from the Chief of Police, or designee.

BWC recordings will not be routinely or randomly reviewed to monitor member performance. A supervisor may conduct a review of a specific incident when there is an articulable reason justifying such review. Articulable reasons for reviewing a specific incident include but are not limited to:

- (a) Capturing specific evidence for use in a criminal prosecution.
- (b) A civil claim has been filed or threatened against the City involving the incident.
- (c) A community member or supervisor complaint has been made against a member regarding the incident,
- (d) The incident included a reportable use of force as described in Policy 300.
- (e) The incident included a vehicle pursuit.
- (f) The incident included a City owned or leased vehicle collision.

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- (g) The incident involved serious injury or death.

It shall be deemed a violation of this policy for a supervisor to review recordings for the sole purpose of searching for violations of department policy or law not related to a specific complaint or incident.

Recordings may also be viewed in any of the following situations:

- (a) To assess properly functioning BWC systems when there is reason to believe that the system is not functioning properly.
- (b) By a department approved investigator who is participating in an official investigation, such as a personnel complaint or a criminal investigation.
- (c) By a member who is captured on or referenced in the video or audio data and reviews and uses such data for any purposes relating to their employment.
- (d) To assess possible training value at the suggestion of the involved member and their supervisor.
- (e) Recordings may be shown for training purposes with approval of the involved members. If an involved member objects to showing a recording, their objection shall be submitted to the Chief of Police, or designee to determine if the training value outweighs the member's objection.
- (f) Use of force events may be reviewed by the appropriate training team as designated by the Chief of Police after the event has been approved by the Lieutenant. Training team members shall not discuss or disclose the footage of the event outside of a formal training document.
- (g) By a member's legal representative and/or bargaining unit representative who is involved in representing the member in an official investigation, such as a personnel complaint or a criminal investigation.
- (h) By the City Attorney's Office or other legal representative of the City consistent with the articulable reasons above.
- (i) As part of any Public Disclosure Request.
- (j) In connection with any incident that garners unusual media or community member inquiry consistent with the articulable reasons above.
- (k) Recordings involving use of force, community member complaints, and internal investigations will be reviewed by the Office of Professional Standards and forwarded to the Police Auditor.

When preparing written reports, members should only review their recordings as a resource. Members should not use the fact that a recording was made as a reason to write a less detailed report.

In no event shall a recording be used or shown for the purpose of ridiculing or embarrassing a member.

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Recordings will be provided to the City and County prosecutor's office when requested as part of discovery for a criminal or civil case.

An electronic log of all times a recording is viewed or transmitted shall be maintained and will be accessible to the exclusive bargaining representative of represented members. The log will include the date, time, and reviewer.

All use of force incidents will be reviewed by the Office of Professional Standards and forwarded to the Police Auditor.

### **422.3.11 PUBLIC DISCLOSURE OF BWC RECORDINGS**

Public disclosure of BWC recordings is governed by the Public Records Act, Chapter 42.56 RCW. The Records Manager or their designee will ensure that a copy of the recording is made and delivered in accordance with a lawful request.

### **422.3.12 TRAINING**

The Department shall ensure that each member is trained in the use of the BWC prior to issuance and deployment. The training shall include:

- (a) Training on operation (to include policy review), maintenance and care.
- (b) Periodic training on significant changes in the law pertaining to BWC.

### **422.3.13 STORAGE AND RETENTION**

Video recordings will be maintained on a secure server in accordance with applicable retention rules. Copies of case-related videos may be maintained on other media storage devices within the Department property room.