

## Body-Worn Cameras

### 418.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable body-worn camera devices by members of this Department while in the performance of their duties. Body worn cameras include any video, or video and audio recording systems whether body-worn, hand held or integrated into portable equipment.

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

### 418.2 POLICY

The Colorado State University Police Department may provide members with access to body-worn cameras for use during the performance of their duties. The use of cameras is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public. Only body worn camera devices owned by Colorado State University Police Department and issued to its members are authorized for use, no privately owned body-worn camera devices will be permitted.

CSUPD acknowledges that any visual recording is only representative of one perspective of an event, and that the camera “sees” differently than the human eye. A Department employee’s recall of an event particularly in a critical, acute-stress encounter is distinct from any other view.

### 418.3 MEMBER PRIVACY EXPECTATIONS

All recordings made by members acting in an official capacity shall remain the property of the Department regardless of whether those recordings were made with department-issued body-worn cameras or with any other device. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 418.4 OFFICER OPERATION RESPONSIBILITIES

Prior to going into service or operating a CSUPD vehicle in any capacity, each sworn member who is issued a camera will be responsible for making sure that he/she is equipped with a body-worn camera issued by the Department, and that the camera is in good working order. Officers should test the camera’s operation in accordance with manufacturer specifications and department training at the start of each shift.

Testing includes:

- (a) That the unit is functional
- (b) Verifying the unit has an adequate power source
- (c) Ensuring that the unit is properly placed/affixed for optimal use, or stored in a manner that facilitates its immediate use.

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- (d) Documentation of officer information, if required
- (e) At the end of an officer's tour of duty, the unit will be secured and charged in accordance with manufacturer specifications and departmental training

Members in plain clothes who are operating a CSUPD vehicle, whether marked or unmarked, shall be equipped with a body-worn camera, and should store it in a manner that allows for it to be mounted and activated if necessary.

If the body-worn camera is not in working order or malfunctions at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable. Uniformed members should wear the camera in a conspicuous manner or otherwise notify persons that they are being recorded, whenever possible.

Any member assigned to a non-uniformed position may utilize an approved body-worn camera at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the camera in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever possible.

When using a body-worn camera, the assigned member shall record his/her name, CSUPD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members shall 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.

### **418.5 ACTIVATION OF THE DEVICE**

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. Members should activate the camera any time the member believes it would be appropriate or valuable to record an incident.

The body-worn camera should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops, field interview (FI) situations and post arrest interrogations or interviews:
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops. If the circumstances of the traffic stop indicate the portable recording device is no longer needed, then it is the officer's discretion to end the recording and document the reason why.
- (c) Priority responses
- (d) Vehicle pursuits

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- (e) Suspicious person/vehicle contacts
- (f) Arrests to include the transport of detainees.
- (g) Vehicle searches
- (h) Physical or verbal confrontations or use of force
- (i) Domestic Violence calls
- (j) DUI investigations including field sobriety maneuvers
- (k) Any call for service involving a crime where the camera would clearly aid in the apprehension and/or prosecution of a suspect
- (l) Self-initiated contacts in which a member would normally notify Dispatch, to exclude routine non-criminal incidents such as Safewalks, building unlocks, or other brief service-related interactions
- (m) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

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. 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.

At no time is a member expected to jeopardize his/her safety in order to activate a body-worn camera or change the recording media. However, the camera should be activated in situations described above as soon as practicable.

### 418.5.1 CESSATION OF RECORDING

Once activated, the body-worn camera should remain on continuously until the member reasonably believes their direct participation in the incident is complete or the situation no longer fits the criteria for activation. It is understood that not all incidents will clearly start out as needing documentation by the body-worn camera or having a clear ending when the unit is no longer needed. Officers will be expected to use discretion and common sense when activating and deactivating the portable recording unit. If there is a break in the recording of a case related incident, the officer report shall explain why that break occurred on the recording or in an associated report.

Recordings may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident. Examples of such breaks include but are not limited to:

- (a) There is a malfunction to or accidental deactivation of the device
- (b) There is personal information being shared that is not case sensitive, such as victim family information/discussion, protected personal information, or personal medical information. In practice, body-worn camera recordings should not be used in a medical

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facility unless there is an obvious need to document evidence, actions, or potential accountability issues.

- (c) The officer is placed on a related assignment that has no investigative purpose, such as scene security post, scene processing, traffic post, etc. Recording may cease if an officer is simply waiting for the arrival of a tow truck, taxi, family member or other similar non-confrontational, non-evidentiary situation.
- (d) There is a long break in the incident/contact such as an interruption related to routine police action that is not evidentiary in nature or unrelated to the initial incident.
- (e) There is activity such as a transport or change of venue where there is no incident related police activity occurring.
- (f) There is recognition by the officer that the contact no longer creates potential evidentiary or mutual accountability issues.
- (g) Once an event has been stabilized, if it is necessary to discuss issues surrounding the investigation with a supervisor or another officer in private, operators may turn off their body-worn camera system. The operator shall break contact with any citizen if they plan on intentionally turning off the camera, and there is a likelihood that evidence or mutual accountability documentation still exists. This includes discussions between Field Training Officers with officers in training that are specific to training issues.
- (h) If a request is made for a body-worn camera to be turned off by a party being contacted, the officer shall take into account the overall circumstances, and what is most beneficial to all involved, before deciding to honor the request. For example, an officer may choose to turn off the device if its operation is inhibiting a witness or victim from giving a statement. It is up to the officer to make the determination as to what is best for the investigation or contact.

Additionally, the recorder should be deactivated when any of the following apply:

- (a) When on the premises of any public or private elementary or secondary school, unless the member is responding to an imminent threat to life or health where there is potential for enforcement or criminal investigation
- (b) When an individual requests to remain anonymous or is a confidential informant
- (c) When discussing administrative, tactical or management issues

Any incident that is recorded shall be documented in the officer's report. If a traffic citation is issued, the officer shall make a notation on the back of the citation copy that will be sent to court, indicating that the incident was recorded.

#### 418.5.2 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

Colorado law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (CRS § 18-9-303).

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Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

### **418.5.3 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.

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

Members are prohibited from using department-issued body-worn cameras and recording media 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 while on-duty, whether the recording was created with department-issued, or any other device. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned body-worn camera devices while on-duty.

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

Members are prohibited from using their department issued body worn cameras that are not consistent with situations outlined in Section 418.5, Activation of the Device.

### **418.7 PERSONAL COMMUNICATION DEVICES**

The section generically refers to all such devices as Personal Communications Devices (PCD), but is intended to include all mobile telephones, personal digital assistants (PDA) and similar wireless two-way communication and/or portable Internet access devices.

The use of personally owned or Department-issued PCDs when utilizing Axon Capture software is authorized for the recording and submittal of photographic, video and audio evidence, but shall not replace or interfere with the body-worn camera system or its activation. Any such utilization of PCDs is not required.

### **418.8 RETENTION REQUIREMENTS**

All recordings shall be retained for a period consistent with the requirements of the organizations records retention schedule but in no event for a period less than (1) year from the date of creation, not to exceed three (3) years unless it has training value or has evidentiary value in a criminal or civil action.

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Classifications, descriptions, and retention are as follows:

- a. **NON EVENT**- A misc activation of the body worn camera which does not meet the requirements of any other classification. Retention period will be at least one year from the date of creation.
- b. **INCIDENT ONLY**- Activation of the system where there may be some liability or possibility of a complaint or future action. Examples may include moving items from the roadway, motorist assists, traffic control, general citizen contacts, contacts in which there was a violation of the law but the officer has chosen to issue a verbal or written warning. These recordings should be available for a period of time to address any complaints or issues that could be resolved by reviewing the recording. Retention period will be at least one year from the date or creation.
- c. **TRAFFIC**- Traffic stops involving vehicle, bicycle, pedestrian, etc. where the officer issues either an administrative (BEEP/TEEP) citation or cites the violator into Municipal or County traffic court for related traffic offenses. Retention period will be at least three years from the date of creation.
- d. **CASE REPORT**- Anytime a recording of evidentiary value has been made during an investigation and a case report has been generated. These recordings are subject to general policy and procedure regarding the retention of case related evidence. When data has evidentiary or exculpatory value in a criminal or civil action, the applicable data shall be categorized as "permanent retention" or until final action from the District Attorney or the Fort Collins Municipal Court has been approved or unless otherwise advised by the CSU/Office of General Counsel.
- e. **USE of FORCE or CIVILIAN COMPLAINT**- Any recording gathered by the body worn cameras shall be retained and stored by this police department for a minimum of three years if the video footage captures images involving
  1. Any use of force
  2. An encounter about which a complaint was made against a department member by a subject of the video footage
- f. **VOLUNTARY RETENTION REQUEST**- Data gathered by the body worn camera shall be retained and stored by the department for a minimum of three years if a longer retention period is voluntarily requested by:
  1. A department member, if the video footage is being retained solely and exclusively for Department training purposes.
  2. A deceased person's next of kin or legally authorized designee
  3. Any parent or legal guardian of a minor who is the subject of the video footage.
  4. A person who is the subject of the video footage.

Nothing in this policy shall be read to contravene any laws governing the maintenance and destruction of evidence in criminal investigations and prosecutions.

See Policy 808 (Retention Schedule) for the full records and evidence retention procedures.

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Any recording gathered by the body worn camera may be used and shared with the District Attorney's office or other law enforcement agencies only as permitted by law.

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

To assist with identifying and preserving data and recordings, members shall download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

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.

Any time a member believes a recording may be beneficial in training, the member should promptly notify the Operations Division Commander and the Crime Lab Manager or designee through the chain of command.

### **418.10 USE OF RECORDED MEDIA FILES FOR TRAINING PURPOSES**

Officers and supervisors are encouraged to review recordings of incidents in which they were involved when such review would be beneficial to conduct a tactical or peer support debrief. When an incident is recorded which may be of value as a training aid for a broad section of the Department, the recording officer or that officer's supervisor should contact the Field Services Division Commander to determine the value of the incident for training. If the Field Services Division Commander determines the incident would be an appropriate training aid, he or she shall retain the video in a separate training file for an indefinite period of time.

### **418.11 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource. However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report. If an officer is on a call where their role would not normally call for a report, but the body-worn camera was activated, they will make a supplemental report if a case number was pulled for evidentiary entry purposes. Otherwise they will follow retention protocols previously outlined.

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Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance. Unless it would interfere or conflict with an ongoing criminal or internal investigation, a supervisor shall notify the recording member when a specific recording is being reviewed and the reasons for the review, and should make an entry describing the same on the activity log for each recording reviewed, if applicable.

Recorded files may also be reviewed:

- (a) For use when preparing reports, statement, or for court testimony. The only exception to an officer reviewing a recording for the purpose of completing a report is if the incident falls under the 8th Judicial District Critical Incident Response Team protocol. In such cases, the CIRT investigation takes precedent.
- (b) By an investigator who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (d) By media personnel with permission of the Chief of Police or the authorized designee.
- (e) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release 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.

### **418.12 AUDITS AND REVIEWS**

In the absence of any of the above listed review triggers, designated supervisors will randomly audit and review body-worn camera recordings for each of their assigned subordinates. These audits and reviews will occur for any officer assigned to Field Services who is issued and routinely utilizes a body-worn camera in the performance of their duties.

Field Services sergeants will complete a monthly review of four, randomly selected recordings for any member within their purview. The Field Training Program (FTO) sergeant will be responsible for completing the monthly review for any officer in training assigned to the FTO program. The Field Services captain will be responsible for completing the monthly review for Field Services sergeants. These reviews will be completed using the AXON Performance system.

The review of body-worn camera recordings using the AXON Performance system will require supervisors to complete a full review of the randomly selected videos and notate if the conduct observed in the recording is within departmental policy and conforms with the standards established by the department. Supervisors reviewing body-worn camera footage will be aware that the body-worn camera has a limited perspective from a single point of view and any negative conduct observed in a review should be fully investigated by the supervisor in accordance with departmental policies regarding administrative investigations, if applicable.



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Supervisors and command staff may periodically review body-worn camera recordings outside of the AXON Performance system in the performance of their managerial duties.

The chief of police may at any time alter the rate, scope and purpose of audits and reviews of body-worn camera recordings to meet the organizational needs of the department or Colorado State University as a whole.