

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF FIFE AND THE FIFE POLICE GUILD – COMMISSIONED
REGARDING IMPLEMENTATION OF BODY
WORN CAMERAS AND BASE WAGE MARKET ADJUSTMENT

1. Date and Parties. This Memorandum of Understanding (“MOU”) is dated for reference purposes the 15th day of April, 2022, and is entered into between the City of Fife (“City”) and the Commissioned Bargaining Unit of the Fife Police Guild (“Guild”).

2. General Recitals and MOU Purpose.

2.1 The Parties have entered into a Collective Bargaining Agreement with a term commencing on January 1, 2018 and ending on December 31, 2023 (“CBA”).

2.2 The City intends to require the use of Body Worn Cameras (“BWC”) by members of the Police Department, under the authority of Section 21(i) of the CBA. The City and the Guild have bargained over the impacts of this directive and desire to formalize the adoption of the bargained policy regarding the implementation and use of BWC.

2.3 Recent legislative changes have placed additional restrictions and burdens on police officers, which were not foreseen when the CBA was negotiated. As a result, many police departments are experiencing high rates of attrition, and difficulty recruiting new officers. To combat this, many police departments have increased officer wages in an effort to retain officers and recruit new officers.

2.4 In recognition of these unforeseen restrictions and burdens, and in an effort to increase officer retention and aid recruitment, the City deems a base wage increase is warranted.

3. Body Worn Camera Policy. The BWC Policy attached hereto as Exhibit A has been properly bargained and is agreed to by the City and the Guild. The City and the Guild will cooperate in good faith to implement BWC as soon as possible with the target start date of June 1, 2022.

4. Base Wage Adjustment. Effective January 1, 2022, all bargaining unit members shall receive a market adjustment base wage increase of 1%, in addition to the COLA in Section 14.1(e) of the CBA. Effective January 1, 2023, all bargaining unit members shall receive a market adjustment base wage increase of 1%, in addition to the COLA in Section 14.1(f) of the CBA.



City Manager



Guild President

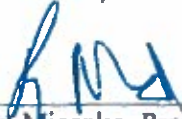
5. Miscellaneous Provisions. The Parties acknowledge that they have freely and voluntarily entered into this MOU, after having been afforded the opportunity, if they so choose, to discuss the MOU with their respective legal counsel.



Russ Blount, Fife Interim City Manager



Date Signed



Ryan Micenko, President
Fife Police Guild Commissioned Bargaining Unit



Date Signed



City Manager



Guild President

Body Worn Cameras

418.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of Body Worn Cameras (BWC) by members of this department while in the performance of their duties (RCW 10.109.010). Personnel that will be required to wear BWC will be designated by the Chief of Police or their designee.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Fife Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

418.2 POLICY

it is the policy of this department that personnel shall activate the BWC when such use is appropriate to the proper performance of his or her official duties and where the recordings are consistent with this policy and law. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

418.2.1 DEFINITIONS

Advisement - Statement made by an officer that a communication, conversation or interaction with a citizen is being recorded.

Activation - The process that turns on the body worn camera and causes it to record or to store audio and video data.

Body Worn Camera - Recorded media consisting of audio-video signals recorded and digitally stored on a storage device or portable media. Reference in this policy as BWC.

Evidence.com - A cloud based data warehouse where body worn camera video footage is stored and retained.

Surreptitious Recording - A recording made without the knowledge of one or more parties to a conversation or communication and is a violation of the Washington Privacy Act, Chapter 9.73 RCW.

418.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity of the department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

418.4 BWC PERSONNEL RESPONSIBILITIES

The Assistant Chief of Administrative Services is the overall system administrator responsible for the system management, The Assistant Chief of Administrative Services is responsible for the following:

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- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
- (b) Establishing procedures for transferring, downloading, tagging or marking events.
- (c) Establishing procedures for members communicating to non-English speakers, those with limited English proficiency or those who are deaf or hard of hearing that a portable recorder is being used.
- (d) Establishing procedures for accessing data and recordings.
- (e) Establishing procedures for logging or auditing access.

The Records Manager, or their designee, will be responsible for distribution, public disclosure, redaction and deletion.

The Assistant Chief of Administrative Services will appoint a Sergeant to oversee the day to day operations of the BWC program.

Sergeants and/or OIC's will be responsible for ensuring that the BWC users on their shift use and maintain their BWC equipment. If an officer's equipment is not working, he/she will be responsible for documenting this in CAD, and will ensure that the equipment is promptly turned in to the appropriate person for repair.

418.4.1 BWC USER RESPONSIBILITIES

Prior to wearing and operating a body worn camera, officers are required to successfully complete department authorized body worn camera training.

Prior to going into service, each uniformed officer will be responsible for making sure that he/she is equipped with a BWC and that the BWC is in good working order. If the BWC is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed officers shall affix their camera to the chest area of their uniforms where it is unobstructed by the uniform itself or other equipment. This does not include circumstances in which the camera becomes unintentionally obstructed during police activity. Officers working in an off-duty assignment shall only activate their BWC during enforcement and investigative contacts with civilians. Privately owned body worn camera(s) are not permitted.

Any member assigned to a non-uniformed position may carry a BWC 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 BWC in a conspicuous manner.

Members should 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 shall include the reason for the deactivation (RCW 10.109.010).

418.5 ACTIVATION OF THE PORTABLE RECORDER

Officers are required to use their BWC to record their law enforcement activity, to do so consistently and in accordance with departmental policy. Officers should default to recording all

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encounters with citizens and enforcement activities in their entirety, unless there is a legitimate law enforcement or legal reason to not do so. Non law enforcement encounters with citizens can be recorded at officer's discretion. Non law enforcement encounters may include casual conversations initiated by an officer or a citizen that is not likely to result in law enforcement action or complaint. An example would be a citizen engaging an officer in a casual conversation during lunch or a scheduled community event.

Officers shall activate BWC prior to exiting the vehicle to any dispatched law enforcement activity. Nothing in this policy prohibits the officers from activating the BWC earlier.

Officers shall activate the BWC as soon as practical upon making the decision to engage in any self-initiated law enforcement activity.

In an officer involved shooting, officers shall turn their cameras off prior to giving their public safety statements.

Officers should record on the BWC reasons for turning off the BWC if the recording is stopped by the officer prior to the conclusion of the law enforcement activity for any reason.

Officers may, at their discretion, activate their BWC any time they determine it would be beneficial to capture an event or activity in their official capacity.

Officers are required to record as much of the law enforcement activity as possible, but the sensitivity or exigency of a situation may warrant turning off, or not activating, the BWC. The decision to not record law enforcement activity shall be made by the officer wearing the BWC and shall be determined by facts and circumstances which must be justified. Facts supporting such a decision may include the following:

- (a) When unsafe or impractical - Law enforcement activity requiring a response that physically prevents an officer from activating the BWC. Officers are advised to put safety ahead of the requirement to record the encounter. The amount of time driving to the call shall be a factor considered in determining if this section applies.
- (b) Sensitive communications - Law enforcement activity involving sensitive communications, matters of law enforcement intelligence or where recording the encounter could hinder a criminal investigation.
- (c) When a citizen objects to being recorded - If a citizen objects to being recorded, the officer may elect to record despite the objection. Since conversations with police officers are not considered private under Washington law there is no requirement that an officer turn off the BWC for a citizen who objects to having the interaction recorded.
- (d) Officers shall document by written report or CAD any decision to not activate the BWC or to turn off the BWC prior to the conclusion of the law enforcement activity, and their reasons for doing so.

Conversations between uniformed police officers and citizens that occur during the performance of official police duties are not recognized as private conversations under Washington law and therefore generally do not require an advisement that the interaction is being recorded. The exceptions are traffic stops and custodial interrogations.

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- (a) Officers conducting traffic stops while equipped with a BWC shall notify the occupants that there is an audio and video recording occurring. This warning should be given at the beginning of the contact, absent an emergent situation, and captured on the recording. The advisement should also be noted in the officer's report if enforcement action is taken.
- (b) Prior to a custodial interrogation, officers shall inform arrested persons that they are being audio and video recorded with a BWC. This statement, along with the Miranda advisement, shall be included in the 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 BWC or change the recording media. However, the BWC should be activated in situations described above as soon as reasonably practicable.

418.5.1 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

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

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

418.5.2 CESSATION OF RECORDING

Once the camera is activated, the officer shall leave it on until the incident has concluded. Officers should cease recording when his/her part of the active investigation is completed and they have left the scene, and there is little possibility that the officer will have further contact with any person involved in the event. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

418.5.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras, 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 PORTABLE RECORDERS

Members are prohibited from using department-issued BWC 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 may not use BWC for non-work related purposes or otherwise operate the BWC outside their legitimate law enforcement duties.

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Members are prohibited from accessing the cloud storage site Evidence.com except for legitimate law enforcement purposes, including authorized review as described in this policy, or otherwise for work related to their job assignment.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with a department-issued or personally owned recorder. 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 recording devices while on-duty.

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

418.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedures 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.

418.8 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. The existence of a recording with a BWC is not a substitute for a written report.

All officers in an internal affairs or complaint investigation will be allowed to view all footage of the incident prior to any interview or answering questions related to an internal affairs investigation.

- (a) Involved officers in a deadly force investigation will be permitted to review only video that shows information available from the officer's vantage point and that was information the officer could have used in making a determination to use force. BWC footage viewed by the involved officer(s) should show actions, items or other relevant

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factors the officer could have seen from their vantage point and that could have been used in making a determination to use deadly force against an individual or individuals.

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.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) 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 Records Manager, or their designee, 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.

418.9 RETENTION OF RECORDINGS

All 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 less than 60 days.

418.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

418.10 TRAINING

The Training Manager should ensure that those members issued a BWC receive initial training upon issue and periodic training thereafter (RCW 10.109.010).