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CITY OF PACIFICA

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March 28, 2017

Charlene Kresevich, Grand Jury Assistant
400 County Center, 2nd Floor
Redwood City, CA 94063

Re: City of Pacifica Body Worn Camera Implementation Plan

Dear Ms. Kresevich:

I am in receipt of your letter dated March 6, 2017 regarding the City of Pacifica body worn camera implementation plan. In the Pacifica City Council response to the 2015-2016 San Mateo County Civil Grand Jury report "Body Cameras-The Reel Truth," the City Council advised the Chief of Police would develop an appropriate body-worn camera implementation plan and advise the public of the plan by November 30, 2016.

At the November 28, 2016 City Council Meeting, Police Chief Steidle presented a body worn camera implementation plan. This plan was accepted and adopted by the City Council. The plan presented to the City Council is as follows:

I. Body Worn Camera Funding Sources

Currently, the Pacifica Police Department receives \$100,000 each fiscal year from the State of California Supplemental Law Enforcement Services Account (SLESA). These monies are allowed to be used for front-line law enforcement expenditures. For the 2016-2017 fiscal year, the Police Department has earmarked \$59,000 for equipment, which will be used to purchase body worn cameras. While the request for proposal (RFP) process is currently underway, initial research indicates that the body worn camera system expenditure will likely not exceed \$59,000.

II. Body Worn Camera Hardware and Software Research

The Pacifica Police Department currently has patrol vehicle dash mounted camera systems in every marked police vehicle. These systems were upgraded, along with the computer systems in the vehicles in 2015 using SLESA funding. Part of this upgrade was the purchase of a large server to replace a smaller, outdated model. The purchase of a larger server was made with the expectation that increased storage space would be needed with the eventual deployment of body worn cameras. A staff member from the City of Pacifica Information Technology Department that is specifically familiar with the Police Department video systems has advised that current server space is adequate for the deployment of body worn cameras.

Initial research by staff into products available indicates that there are numerous available solutions. As part of the RFP process, staff will be identifying which hardware/software solutions meet the needs of the department, as well as their costs. It is anticipated that this process will be completed with a vendor selected no later than January, 2017.

III. Body Worn Camera Proposed Policies

A. Authorized/Required Use

Currently, Pacifica Police Department personnel carry digital audio recorders and operate police vehicles with dash mounted cameras installed. It is the policy of the Pacifica Police Department that officers will record all contacts with the public. This policy, which dates back to the 1980s, is designed to increase transparency by providing best evidence for criminal investigations as well as to aid in the investigation of personnel complaints.

Some cities have developed policy which allows discretion by officers to determine when they activate body worn cameras, or other recording systems. It is the intention of the Pacifica Police Department to apply the mandated recording policy for contacts with the public to body worn cameras. Doing so decreases the chance of a critical event occurring that is not recorded. In an era where public trust in government is questioned frequently, removing the discretion factor reduces the chances of an allegation that the officer chose not to record an event to cover up inappropriate activity.

Final policy regarding when officers shall activate body worn cameras will be drafted taking into consideration information provided in sections B and C, below.

B. Notification and Consent

There is currently no law in California directly governing the issues of notification and consent to record using body-worn cameras. As such, law enforcement officers are not required to obtain consent from members of the public prior to recording when the officer is lawfully in the area where the recording takes place. This includes instances in which the officer is in a private place and instances in which the officer is in a location where there is a reasonable expectation of privacy, but the officer is lawfully present (i.e. inside a building, home, or dwelling).

When an officer's legal grounds for a search of a residence or private place is based solely on consent, they are required to both advise and obtain consent to record with a body-worn camera from the person, with legal standing, who is being recorded and/or searched. This does not apply to crimes in progress or other circumstances that would allow the officer to be lawfully present without a warrant. State law allows officers to record communications that he or she could lawfully hear or record. Penal Code § 633; see also *People v. Lucero*, 190 Cal. App, 3d 1065, 1069 (1987).

Furthermore, officers are not required to activate or deactivate a body-worn camera upon the request of a citizen. In addition, members are not required to play back body-worn camera recordings to allow members of the public to review the video footage. Many cities have employed a policy that while using body-worn cameras, officers should make reasonable efforts to advise persons that they are being recorded with the body-worn camera, unless the officer has reason to believe that doing so will endanger the safety of an investigation.

C. Prohibited Uses

While stationary surveillance cameras generally cover only public spaces, body worn cameras give officers the ability to record inside private homes and to film sensitive situations that might emerge during calls for service. There are no laws in California directly dictating whether certain circumstances require or prohibit the use of body-worn cameras. As such, local jurisdictions must determine the best practices for their department regarding exceptions for use of body-worn cameras. Pacifica's body-worn camera policies will contain prohibitions on use in circumstances that would compromise an investigation or safety of an individual, and circumstances that involve sensitive persons and material. In developing policy, the following or similar language is being considered:

- 1) Officers are prohibited from using body-worn cameras for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.
- 2) Officers are prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Officers shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.
- 3) Officers are prohibited from using personally owned recording devices while on-duty without the express consent of the Chief of Police or designee.
- 4) Recordings shall not be used by any officer for the purpose of embarrassment, intimidation or ridicule.
- 5) Officers should be aware of privacy issues relating to a person's place of residence and/or other areas where there could be an expectation of privacy. If a private person objects to the

use of the recording inside a private residence, the officer may turn off the device in accordance with this policy.

Recordings should specifically not be made in the following instances:

- 1) When not in service or during breaks
- 2) During encounters with undercover officers or confidential informants
- 3) To record non work-related activity, or in areas where a reasonable expectation of privacy exists such as in locker rooms, dressing rooms or restrooms
- 4) Where a person's private health information is being discussed, such as ambulance responses to accidents or illnesses where victims are not believed to be involved in any criminal activity
- 5) When the recording creates an officer safety issue
- 6) When discussing administrative, tactical or law enforcement sensitive information away from the public

D. Release of BWC recordings

The release of body worn camera recordings will occur in compliance with the Public Records Act (California Government Code 6250 Et Seq.) after consultation with the City Attorney on a case by case basis.

E. Retention and Destruction of BWC Recordings

Pursuant to State law (Penal Code § 832.18; AB 1953, 2016), non-evidentiary data collected through body worn cameras should be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled. An agency may keep data for more than 60 days to have it available in case of a civilian complaint and to preserve transparency. Body camera data should be kept for two years if:

- 1) It involves use of force by a peace officer or an officer-involved shooting
- 2) The recording is of an incident that leads to the detention or arrest of an individual
- 3) If the recording is relevant to a formal or informal complaint against a law enforcement officer or a law enforcement agency

If evidence that may be relevant to a criminal prosecution is obtained from a recording made by a body-worn camera under this section, the law enforcement agency should retain the recording for any time relevant to a criminal prosecution. Records or logs of access and

deletion of data from body-worn cameras should be retained permanently. Current Police Department policy requires the retention of all audio and video footage for at least one year.

F. Conclusion

It is the intention of staff to proceed with this plan to implement a body worn camera system at the Pacifica Police Department. Further, policy completion and implementation of the system is expected to be completed prior to the October 31, 2017 goal set by the San Mateo County Grand Jury.

As of the date of this letter, Chief Steidle has advised that the body worn camera implementation plan is on track to be completed as scheduled, no later than October, 31, 2017.

Sincerely,

LORIE TINFOW
City Manager

cc: Daniel Steidle, Police Chief, City of Pacifica