

## **DRAFT POLICY**

**EFFECTIVE DATE:** \_\_\_\_\_, 2017

**SUBJECT:**   **Disclosure Under GRAMA of Body-Worn Camera Recordings of Officer Involved Critical Incidents**

**AUTHORITY**

**SIGNATURE:**

\_\_\_\_\_  
**JACQUELINE M. BISKUPSKI, MAYOR**

\_\_\_\_\_  
**DATE**

### **Preface**

The Government Records Access and Management Act (“GRAMA”) provides that a City record is public unless otherwise expressly provided by statute. GRAMA also reflects a legislative intent that favors public access to information when, in the application of GRAMA, countervailing interests in disclosure and in privacy are of equal weight.

The City recognizes that the public has a strong interest in viewing body-worn camera (“BWC”) recordings of Officer Involved Critical Incidents (“OICIs”). This Executive Order is intended to prescribe rules to be followed by the SLCPD with respect to the release of BWC recordings of OICIs.

Therefore, the Mayor of Salt Lake City enacts this Executive Order:

### **1. Definitions.**

- 1.1 Agency or Agencies means any agency investigating an OICI and any agency screening an OICI for charges, including a District Attorney, the Utah Attorney General, or the United States Department of Justice.
- 1.2 Body-Worn Camera (“BWC”) means a digital video recorder worn by police officers for the purpose of recording law enforcement encounters with persons.
- 1.3 Officer Involved Critical Incident (“OICI”) is defined by Utah Code § 76-2-408(1)(d):
  - (i) The use of a dangerous weapon by an officer against a person that causes injury to any person;
  - (ii) A fatal injury to any person except the officer, resulting from the use of a motor vehicle by an officer;
  - (iii) The death of a person who is in law enforcement custody, but not including deaths that are the result of disease, natural causes, or conditions that have been medically diagnosed prior to the person’s death; or

- (iv) A fatal injury to a person resulting from the efforts of an officer attempting to prevent a person's escape from custody, make an arrest, or otherwise gain physical control of a person.

1.4 Mayor means the mayor of Salt Lake City, Utah, or the mayor's designee.

1.5 Salt Lake City Police Department ("SLCPD") means the police department of Salt Lake City, Utah.

## **2. General Provisions**

### **2.1 Weigh Interests; Classification of Record**

Subject to any applicable federal, state, or local law, the SLCPD shall determine whether the public's interest in accessing a particular BWC recording of an OICI outweighs or is equal to the interests favoring restriction of access to that BWC recording. If the SLCPD's determination is that the public's interest in access outweighs or is equal to the interests favoring restriction of access, the SLCPD shall classify the BWC recording as a public record. In making that determination, the SLCPD shall consider any public safety issues that may be related to the OICI.

### **2.2 Contact Relevant Agencies**

As part of its process in weighing interests, the SLCPD shall contact the relevant Agencies to determine whether they claim a law enforcement interest in classifying the BWC recording as non-public.

### **2.3 Agencies Required to Make Non-Public Claim In Writing**

If an Agency claims such an interest, then the Agency must make the claim in writing within a reasonable time after the Agency was contacted by the SLCPD, explaining specifically *why* the BWC recording should not be released. This claim will be a public record, subject to redaction for any private, controlled, or protected information. A claim merely parroting GRAMA's statutory language is insufficient. GRAMA provisions justifying a claim that the record is non-public might include:

- "reasonably could be expected to interfere with an investigation" (*see* Utah Code § 63G-2-305(10)(a));
- "reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings (*see* Utah Code § 63G-2-305(10)(b));
- "would create a danger of depriving a person of a right to a fair trial or impartial hearing" (*see* Utah Code § 63G-2-305(10)(c));
- "reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not

generally known outside of government if disclosure would compromise the source” (*see* Utah Code § 63G-2-305(10)(d)); or

- “reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts” (*see* Utah Code § 63G-2-305(10)(e)).

### 2.3 Agency Request; Renewal Requirements

In weighing any claim from an Agency that the BWC recording should be non-public, the SLCPD may consider the proffered explanation, any relevant provision in GRAMA, the anticipated complexity and length of the investigation, whether release would taint or color witness testimony or recollections, public safety issues, or other similar factors.

If, after weighing the aforementioned factors, the SLCPD determines that the record should be made public, the SLCPD will notify the relevant Agencies before publicly releasing the record.

If the SLCPD agrees to classify the BWC recording as non-public based on an Agency’s claim, the SLCPD will review the classification every 30 calendar days. If, after any 30 calendar day period the Agency fails to renew its request in the manner described in the next paragraph, the SLCPD shall release the BWC recording, subject to any redactions (or segregation) of private, controlled, or protected images or sounds captured on the recording.

If an Agency seeks to renew its request to maintain the non-public classification, such request must be submitted in writing explaining why an *additional* 30 calendar days of non-public classification is necessary. This renewal request shall be made public, subject to redaction of any private, controlled, or protected information. This process may be repeated for a period of up to 180 calendar days after the date of the OICI at issue.

After 180 calendar days have passed from the date of the OICI, and regardless of whether an investigation has been completed or a criminal or civil case has been instituted, the SLCPD shall release the BWC recording, subject to redaction (or segregation) of any private, controlled, or protected information.

Date signed by Mayor Jacqueline M. Biskupski: \_\_\_\_\_, 2017.