

OFFERED BY COUNCILORS BRIAN WORRELL, BREADON, CULPEPPER, DURKAN, FITZGERALD, FLYNN, LOUIJEUNE, MURPHY, PEPÉN, AND WEBER



CITY OF BOSTON

IN THE YEAR TWO THOUSAND TWENTY SIX

**ORDINANCE AMENDING BOSTON'S REGULATIONS
RELATED TO PUBLIC TRUST, PUBLIC INTEREST,
AND POLICE TRANSPARENCY AND
ACCOUNTABILITY**

WHEREAS, Boston, like many cities in the United States, has several examples of incidents of public interest or incidents of serious bodily harm involving civilians and members of the police force wherein police body-worn camera (BWC) and/or dash-camera footage has played a role in adjudication purposes and in keeping impacted persons and the general public informed as to matters related to public safety; *and*

WHEREAS, This is evidenced by the many Freedom of Information Act (FOIA) requests submitted over the years to review police footage, whether by family members and loved ones impacted by a police-involved incident, as well as advocates, and/or other members of the public; *and*

WHEREAS, Boston has an Office of Police Accountability and Transparency (OPAT), whose responsibilities include “investigating complaints of Boston Police Department misconduct”, and at the state level the Massachusetts Peace Officer Standards and Training (POST) exists to “improve policing and enhance public confidence in law enforcement by implementing a fair process for mandatory certification, discipline, and training for all peace officers in the Commonwealth”; *and*

WHEREAS, Despite the role OPAT is meant to play in ensuring that the “Boston Police Department's internal affairs review process is fair and thorough, and to review Boston Police Department's existing and proposed policies and procedures,” existing legislation requires any public request to review police BWC or dash-camera footage to be approved by and through the sole authority of the Commissioner of the Boston Police Department, and officers involved in any incidents of public interest play a role in deciding themselves whether or not any of their BWC or dash-camera footage can and should be released; *and*

WHEREAS, Residents have decried the harm done in cases where BWC or dash-camera footage has been requested by an impacted person or other member of the public in line with the rule of law, but such requests were denied without clear justification or communication, and despite many such incidents occurring within the public eye; *and*

WHEREAS, Current practices present a lack of clarity regarding disclosure regulations and timelines, and possible conflict of interests that diverge from the purpose of OPAT's establishment, while risking harm not only to those impacted by incidents, but also members of our police force, and the best interests of the public in general, by provoking a culture of secrecy, lack of accountability, and lack of transparency in matters related to public safety in Boston; *and*

WHEREAS, There exist alternative examples to better promote such accountability and transparency, such as New York City's policy to release within 24 hours after a request to view footage involving a critical incident, or Chicago's requirement to release footage within 60 days after a request; *and*

WHEREAS, Public safety matters are the concern of all residents, and the City of Boston must promote transparency, accountability, and public trust in law enforcement by requiring timely public disclosure of body-worn camera and dash-camera footage following incidents of public interest; *and*

WHEREAS, Prompt disclosure of body-worn camera footage after incidents of public interest serves an important public purpose, including promoting confidence in governmental institutions, reducing misinformation, and ensuring meaningful public accountability; *and*

WHEREAS, In order to prioritize the best interests of the public, any withholding of such footage must remain the rare exception and be time-limited; narrowly tailored to preserving only those protections specifically enumerated in these updated regulations and otherwise required by federal law, state law, court order, public safety, and personal privacy; and accompanied by written findings sufficient to permit public oversight; *and*

WHEREAS, The City of Boston should consider a direct amendment to Boston's existing OPAT ordinance and accordant chapters of the city's public safety code, to provide updated BWC and dash-cam footage disclosure rules to promote such transparency and accountability, enhance OPAT's role in reviewing civil claims and settlements, facilitating independent audits, and engaging special counsel and budgetary provisions where necessary in conjunction with the law; ***NOW, THEREFORE BE IT***

ORDERED: That the City of Boston explore practices to improve trust and accountability between and among members of the public and the city's police forces via measures including but not limited to; decreasing any backlog of requests to view BWC or dash-camera footage involved in incidents of public interest; clarifying rules of exemption related to requests to view footage; and taking measured and proactive steps to enhance communication and transparency regarding any incidents of public interest involving police and members of the public; ***AND BE IT FURTHER***

Ordained by the City Council of Boston as follows:

SECTION 1. Incident of Public Interest Body-Worn Camera Disclosure and Accountability.

The City of Boston Municipal Code, Ordinances, Chapter 11, Section 1, *Boston Police Department*, is hereby amended by inserting immediately after Section 11-1.11 the following new sections:

Section 11-1.12. Incident of Public Interest Body-Worn Camera Disclosure.

A. Definitions.

For purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

- a. **Body-worn camera or BWC footage** refers to any audio, video, digital image, metadata, or other electronically stored recording captured by a body-worn camera issued, worn, or operated by a sworn member of the Boston Police Department.
- b. **Boston Police Department or Department** refers to the Boston Police Department (BPD).
- c. **Commercial use** refers to activity involving sale, purchase, use or distribution of footage to, by, or through any person or entity, including public relations firms, who/that is engaged in such activities and related activities with respect to sale, purchase, use, or distribution of police body-worn or dash-camera footage.
- d. **Commissioner** refers to the Police Commissioner of the City of Boston, or the Commissioner's designee.
- e. **Constable** refers to a new position to be established in the OPAT to assist OPAT in their efforts of enforcing the provisions of this ordinance. The Constable shall have authority to review all serious discipline matters referred under Section 12-17.11(E) of the City of Boston Municipal Code, to request hearings, subpoena witnesses and records by and through the Commission pursuant to M.G.L c.233 s.1, administer oaths, receive written submissions, and issue written disciplinary recommendations. The Constable shall also be responsible for providing the Executive Director with an annual report on anticipated legal fees to be associated with enforcing the provisions of the ordinance. The Constable shall have legal expertise sufficient to perform their role and responsibilities.
- f. **Incident of Public Interest** means: (1) any discharge of a firearm by a sworn member of the Department that results in injury or death to a member of the public; (2) any use of force by a sworn member of the Department that results in death or serious bodily injury; (3) any death occurring while a person is in the custody of the Department; (4) any incident in which a sworn member of the Department uses force and the Commissioner determines that public disclosure of body-worn camera footage is necessary to advance transparency and public trust; or (5) any other category of incident designated by rule of the Department, provided that such rule is consistent with the purposes of this section. Such incidents include those occurring in the public eye, which shall mean any incident witnessed by a member of the public or occurring on land within the boundaries of the

City of Boston, regardless of whether or not such an incident occurs on public or private property.

- g. **Custody** refers to detention, arrest, transport, booking, or any other circumstance in which a person is under the control of the Department and is not free to leave.
- h. **Dash-camera footage** refers to any audio, video, digital image, metadata, or other electronically stored recording captured by an automobile dash-camera operated by a sworn member of the Boston Police Department.
- i. **Delayed release determination** refers to a written finding issued pursuant to subsection (f) temporarily withholding all or part of body-worn camera footage otherwise subject to disclosure under this section.
- j. **Office of Police Accountability and Transparency** or "OPAT" refers to the Office of Police Accountability and Transparency established by the City of Boston, and whose purpose includes "investigating complaints of Boston Police Department misconduct".
- k. **POST** refers to the Massachusetts Peace Officer Standards and Training Commission, established to "improve policing and enhance public confidence in law enforcement by implementing a fair process for mandatory certification, discipline, and training for all peace officers in the Commonwealth".
- l. **Public release** refers to publication or other public disclosure of body-worn camera footage by the Department, including through an official City or Department website, official press release, official digital platform, or other public method reasonably calculated to provide broad public access. Such a release and any activity or release decisions following, shall be carried out in service of the public interest.
- m. **Preliminary public transparency report** refers to a written public report issued by OPAT concerning an incident of public interest that summarizes the known circumstances of the incident, identifies the existence and status of body-worn camera footage, states what footage or portions are being released or withheld, and explains the basis and expected timeline for any continued withholding.
- n. **Reasonably segregable portion** refers to any portion of body-worn camera footage that may be disclosed after redaction, editing, muting, blurring, cropping, or other lawful limitation that removes exempt or protected information while preserving the remainder for release.
- o. **Serious bodily injury** refers to bodily injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in protracted loss or impairment of the function of any bodily member or organ.
- p. **Release decisions** refers to determinations concerning whether body-worn camera or dashboard camera footage in the possession, custody, or control of the Boston Police Department shall be publicly released, partially released, redacted, or temporarily withheld under this section.

B. General Rule of Disclosure.

Except as otherwise provided in this section, the Department shall publicly release body-worn camera footage depicting an incident of public interest not later than thirty (30) calendar days after the date of the incident.

In addition to the thirty- (30) day disclosure requirement, the Department shall transmit to OPAT, as soon as practicable and in no event later than seventy-two (72) hours after an incident of public interest, all body-worn camera and dash-camera footage then in its possession relating to the incident, together with any known information reasonably

necessary for OPAT to conduct a preliminary transparency review and formulate any preliminary release recommendation.

The Department, as custodian of the footage, shall implement any such ordered preliminary release immediately unless, Corporation Counsel files with OPAT and the City Council a written legal objection identifying the exact statute, regulation, privilege, or court order that expressly bars disclosure of the identified portion or portions, together with the specific and articulable facts supporting that objection.

The duty established by this section is an affirmative disclosure obligation and shall not depend upon the filing of a public records request.

C. Scope of Required Release.

The Department shall release all body-worn camera footage in its possession that depicts, records, or materially documents an incident of public interest, including footage recorded before, during, and immediately after the event to the extent such footage is necessary to provide fair contextual understanding of the incident.

Where multiple officers' body-worn camera recordings exist, the Department shall release all recordings required by this section unless a portion is lawfully withheld under subsection (f).

Nothing in this section shall require the release of footage that does not exist, that was not captured, or that is not in the possession, custody, or control of the Department.

D. Required Redactions and Privacy Protections.

Prior to release to the ED, the Department shall redact, blur, mute, crop, or otherwise limit body-worn camera footage as necessary to protect against disclosure prohibited by law and to protect legitimate privacy interests, including but not limited to: (1) the identity of minors; (2) nudity or partial nudity; (3) medical information or treatment details protected by law; (4) the identity of sexual assault survivors; (5) the identity of survivors of abuse and/or coercive control, as defined in M.G.L. c.209A s.1; (6) the identity of confidential informants or undercover personnel; (7) the identity of involved parties at request, under discretion of the ED, witnesses or uninvolved bystanders where disclosure would create a substantial risk of harm or unlawful invasion of privacy; (8) interior residential details, personal documents, license plates, or other personally identifying information where disclosure is prohibited by law or would constitute an unwarranted invasion of privacy; and (9) audio that is privileged or otherwise protected from disclosure by law.

Redactions under this subsection shall be narrowly tailored. The Department shall not withhold an entire recording when lawful disclosure may be accomplished through partial release of reasonably segregable portions. The Commissioner shall provide in writing reasons for redactions when transmitting the footage to the ED pursuant to this section.

E. Temporary Withholding.

Within 7 days and not longer, the Department may make the determination to temporarily withhold specific portions of body-worn camera or dash-camera footage otherwise

subject to disclosure under this section only where the Commissioner issues a written delayed release determination finding that redaction under subsection (e) cannot reasonably cure the issue and that public release of the specific portion or portions would: (1) depict the unclothed body of a person, sexual assault evidence, or medical treatment information; (2) reveal the identity of a minor, confidential informant, undercover officer, or protected witness; (3) disclose a private residential interior, personal identifying information, or other information whose disclosure is prohibited by federal law, state law, or court order; (4) reveal a specific nonpublic investigative technique, tactical response, or operational detail whose disclosure would create a concrete risk to officer or public safety; or (5) violate an order of a court of competent jurisdiction expressly prohibiting disclosure of the portion at issue.

A delayed release determination shall: (1) identify the incident; (2) identify with as much specificity as practicable the footage or portions being withheld; (3) identify the specific subsection or subsections of paragraph (f) authorizing withholding and any other precise legal authority claimed to require or authorize non-disclosure, including any statute, regulation, privilege, or court order by citation and, where applicable, any court docket number and order date; (4) state the specific, articulable facts supporting withholding; (5) explain why redaction, muting, blurring, cropping, or release of reasonably segregable portions is insufficient; (6) identify the approving official; (7) state the date on which the determination was made; and (8) state the date on which the withholding shall next be reviewed pursuant to subsection (h).

The possibility of embarrassment, public controversy, political inconvenience, reputational harm, criticism of the Department or any public official, generalized claims of prejudice to an investigation or prosecution, or the mere existence of criminal charges shall not constitute a lawful basis for withholding under this subsection. The possibility of pretrial publicity, standing alone, shall not constitute sufficient grounds for withholding footage.

F. Rolling Review of Continued Withholding.

Any withholding under subsection (f) shall be temporary and subject to continuing review.

The Department shall review any continued withholding not less than once every fourteen (14) calendar days to determine whether grounds for withholding remain.

The Department shall publicly post an update not less than once every thirty (30) calendar days while any portion remains withheld, stating whether withholding continues, whether any additional footage has been released, and the next date on which the matter will be reviewed.

All footage withheld pursuant to subsection (f) shall be released promptly upon expiration of the lawful basis for withholding, subject to redactions authorized by subsection (e).

G. Partial Release Required.

If the Department withholds any portion of body-worn camera footage pursuant to subsection (f), the Department shall nonetheless release all reasonably segregable portions not lawfully subject to withholding to the Executive Director in accordance with this section.

If full release is not possible within seven days, the Department shall, not later than the seventh day after the incident: (1) publicly release all reasonably segregable portions then available for release; (2) publicly post the delayed release determination; (3) publicly provide a brief written summary of the incident, to the extent lawful; (4) identify the categories of information withheld; (5) state the date of the next required review; and (6) defer to Sections F and G for the remaining withholding timeline.

H. Confidential Oversight Briefings.

For purposes of official oversight, the Department shall provide confidential briefings regarding incidents of public interest and related disclosure determinations to: (1) the Executive Director of OPAT or designee; (2), the District Councilor of the area where the incident occurred; and (3) Corporation Counsel, or a designee designated for official legal oversight purposes.

A confidential oversight briefing may include controlled viewing of relevant body-worn camera footage where lawful and appropriate.

No person participating in a confidential oversight briefing shall: (1) make, receive, or retain any unauthorized copy, photograph, screenshot, or recording of the footage; (2) publicly disclose any nonpublic information viewed in the briefing except as authorized by law; or (3) use the briefing for campaign, partisan, commercial, or other nonofficial purposes.

The Department shall maintain an audit log of all confidential oversight briefings, including the date, attendees, footage reviewed, and legal basis for any limitations imposed.

Any limitation on a confidential oversight briefing that includes viewing of nonpublic footage shall be based solely on one or more of the specific withholding grounds set forth in subsection (f), shall be stated in writing, and shall be incorporated into the Department's file and transmitted to OPAT.

Nothing in this subsection shall be construed to create a discovery right, a public records right, or a right of general access by elected officials to body-worn camera footage outside the official purposes and limitations stated herein.

I. Preservation of Evidence.

The Department shall preserve all body-worn camera footage related to an incident of public interest in accordance with applicable law, evidentiary requirements, and records retention obligations.

No footage subject to this section shall be altered, destroyed, deleted, overwritten, or otherwise rendered unavailable in a manner inconsistent with law or Department retention rules.

J. Department Reporting to OPAT and City Council.

Not later than the fifteenth day of each month, the Department shall submit to OPAT and to the Boston City Council a monthly report covering the prior month and all open incidents of public interest.

The monthly report shall include, for each incident of public interest: (1) the date of the incident; (2) the incident category; (3) whether body-worn camera footage exists; (4) whether footage was publicly released; (5) the date of any public release; (6) whether any footage was withheld in whole or in part; (7) the legal and factual basis for any withholding, stated in summary form and by reference to the applicable subsection of paragraph (f); (8) whether a confidential family viewing was offered or conducted; (9) whether a confidential oversight briefing was conducted; (10) the date of the next review of continued withholding, if any; and (11) the final release date, when applicable.

The Department may omit personally identifying information from the monthly report to the extent required by law.

K. Coordination with the Massachusetts Peace Officer Standards and Training Commission (POST).

OPAT Staff and the Department shall screen all complaints, sustained findings, disciplinary override decisions, and critical-incident matters arising under this section for reporting obligations under Chapter 6E of the General Laws and any applicable regulations, forms, or directives with the Massachusetts Peace Officer Standards and Training Commission (POST) or its Division of Police Standards.

Any complaint or matter required by law to be transmitted to the Massachusetts Peace Officer Standards and Training Commission or its Division of Police Standards shall be transmitted within the time required by law. OPAT shall notify complainants of their right to file directly with the Massachusetts Peace Officer Standards and Training Commission and, upon request, provide reasonable assistance in doing so.

In addition to any intake-stage transmission required by law, OPAT shall ensure that any sustained finding of misconduct, any recommendation of discipline arising from a sustained finding, any final disciplinary determination materially reducing or rejecting recommended discipline, and any critical-incident investigatory or preliminary transparency report required by law or rule is transmitted to the Massachusetts Peace Officer Standards and Training Commission or its Division of Police Standards where such transmission is required or reasonably necessary to support the Commission's certification, suspension, revocation, or other regulatory functions.

The Department and OPAT shall preserve and provide records in the format and timeframe required by law and by any lawful request of the Massachusetts Peace Officer Standards and Training Commission or its Division of Police Standards.

L. OPAT Review and Public Reporting.

OPAT shall review the Department's compliance with this section and shall have authority to examine delayed release determinations, monthly reports, audit logs of confidential oversight briefings, and such other records as are reasonably necessary to evaluate compliance.

OPAT shall publish: (1) a quarterly public dashboard or summary reflecting aggregate compliance data under this section; and (2) an annual public report evaluating the Department's compliance with this section.

OPAT shall additionally publish each preliminary public transparency report required by subsection (b), together with any relevant footage portions released therewith and any later written updates explaining whether additional footage has been released, remains withheld, or has been newly cleared for release.

The annual public report shall include, at minimum: (1) the number of incidents of public interest; (2) the number and percentage of incidents for which footage was released within thirty days; (3) the average and median number of days to release; (4) the number of incidents involving partial release only; (5) the number and categories of delayed release determinations; (6) the frequency and stated grounds of continued withholding; (7) whether delayed release determinations appeared sufficiently particularized and adequately supported; (8) whether patterns of delay, under-release, or overbroad withholding exist; (9) recommendations for policy, rule, training, or legislative changes; and (10) any additional information OPAT determines necessary to promote accountability and public understanding.

OPAT may include in its report findings as to whether the Department's compliance with this section appears consistent with the purposes of transparency, accountability, privacy protection, and lawful preservation of investigations and prosecutions.

M. Rulemaking and Prohibitions.

Not later than sixty (60) calendar days after the effective date of this ordinance, the Commissioner shall promulgate, amend, or revise Department rules, including but not limited to the Department's body-worn camera policy, as necessary to implement this section.

Such rules shall address at minimum: (1) redaction standards; (2) procedures for timely release; (3) procedures for delayed release determinations; (4) family notice and confidential family viewing; (5) confidential oversight briefings; (6) audit logging; (7) records retention and preservation; and (8) training for all relevant personnel.

Any use or disclosure of BWC or dash-cam footage by the Department, the Commission, or any other entity for purposes of or related to commercial use shall be prohibited.

Any use or disclosure of edited, filtered BWC or dash-cam footage (aside from closed-captions) by the Department, the Commission, or any other entity shall be prohibited.

Requests to access BWC or dash-cam footage shall not be witholden to any financial costs.

Any rule promulgated pursuant to this subsection shall be consistent with this section and all applicable laws and regulations.

N. Construction.

Nothing in this section shall be construed to limit any greater disclosure otherwise required by law.

Nothing in this section shall be construed to diminish any rights of a criminal defendant, any discovery obligations imposed by law, or any other obligations imposed by applicable constitutional, statutory, or common-law rules.

Nothing in this section shall be construed to authorize withholding, delay, or redaction broader than is permitted by law.

Any withholding, delay, or redaction under this section shall be supported by written findings identifying the specific footage or portion at issue, the precise legal authority relied upon, including any statute, regulation, privilege, or court order by citation and, where applicable, any court docket number and order date, the specific, articulable facts requiring non-disclosure, the reason less restrictive measures are insufficient, and the date on which the basis for non-disclosure shall next be reviewed.

No withholding, delay, or redaction shall be based on conclusory, speculative, generic, or unsupported assertions or on unsupported or speculative theories of non-disclosure. A general reference to federal law, state law, court order, ongoing investigation, pending prosecution, public controversy, reputational harm, institutional embarrassment, possible criticism, or public safety shall be insufficient absent citation to the specific legal authority relied upon and a particularized factual showing.

Section 11-1.12. Promotion, Assignment, Retention, and Termination Review.

No officer with a sustained finding of serious misconduct within the preceding five (5) years, or with multiple sustained findings of misconduct within the preceding ten (10) years, shall be promoted, transferred to a specialized unit, assigned to a supervisory rank, or retained in a position of elevated authority absent a written waiver issued by the Police Commissioner and transmitted simultaneously to OPAT, the Independent Police Discipline Review Board, the Mayor, and the City Council. Any such waiver shall state with particularity the reasons for the action, the officer's disciplinary history, the disciplinary matrix considerations, and the specific basis on which the Commissioner concludes the action is in the public interest. OPAT shall review all such waivers and publicly report aggregate data on promotions, specialized assignments, supervisory appointments, demotions, and terminations involving officers with sustained misconduct histories. In all incidents of public interest and all cases resulting in Board review under Section 12-17.22, OPAT shall recommend whether the officer should be placed on a do-not-promote list, removed from a specialized unit, demoted, or terminated.

SECTION 2. Incident of Public Interest Body-Worn Camera Disclosure and Accountability.

The City of Boston Municipal Code, Ordinances, Chapter 12, Section 17, *Office of Police Accountability and Transparency*, is hereby amended by inserting immediately after Section 12-17.20 the following new sections:

Section 12-17.21. Incident of Public Interest Body-Worn Camera Disclosure, Oversight, and Reporting.

In the interest of promoting transparency, accountability, and public trust in law enforcement, the Boston Police Commissioner in coordination with the Executive Director shall cause for the timely public disclosure of body-worn camera footage, following incidents of public interest, as defined herein. The Executive Director shall have the authority to retain special counsel to enforce the provisions of this section, as allowed and applicable by law.

A. Definitions.

For purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

- a. **Body-worn camera or BWC footage** refers to any audio, video, digital image, metadata, or other electronically stored recording captured by a body-worn camera issued, worn, or operated by a sworn member of the Boston Police Department.
- b. **Boston Police Department or Department** refers to the Boston Police Department (BPD).
- c. **Commercial use** refers to activity involving sale, purchase, use or distribution of footage by, through, or to public relations firms, or any other entity engaged in such activities and related activities with respect to sale, purchase, use, or distribution of police body-worn or dash-camera footage.
- d. **Commissioner** refers to the Police Commissioner of the City of Boston, or the Commissioner's designee.
- e. **Constable** refers to a new position to be established in the OPAT to assist OPAT in their efforts of enforcing the provisions of this ordinance. The Constable shall have authority to review all serious discipline matters referred under Section 12-17.11(E), to request hearings, subpoena witnesses and records by and through the Commission pursuant to M.G.L c.233 s.1, administer oaths, receive written submissions, and issue written disciplinary recommendations. The Constable shall also be responsible for providing the Executive Director with an annual report on anticipated legal fees to be associated with enforcing the provisions of the ordinance. The Constable shall be equipped with sufficient legal expertise.
- f. **Incident of Public Interest** means: (1) any discharge of a firearm by a sworn member of the Department that results in injury or death to a member of the public; (2) any use of force by a sworn member of the Department that results in

death or serious bodily injury; (3) any death occurring while a person is in the custody of the Department; (4) any incident in which a sworn member of the Department uses force and the Commissioner determines that public disclosure of body-worn camera footage is necessary to advance transparency and public trust; or (5) any other category of incident designated by rule of the Department, provided that such rule is consistent with the purposes of this section. Such incidents include those occurring in the public eye, which shall mean any incident witnessed by a member of the public or on land within the boundaries of the City of Boston, regardless of whether or not such an incident occurs on public or private property.

- g. **Custody** refers to detention, arrest, transport, booking, or any other circumstance in which a person is under the control of the Department and is not free to leave.
- h. **Dash-camera footage** refers to any audio, video, digital image, metadata, or other electronically stored recording captured by an automobile dash-camera operated by a sworn member of the Boston Police Department.
- i. **Delayed release determination** refers to a written finding issued pursuant to subsection (f) temporarily withholding all or part of body-worn camera footage otherwise subject to disclosure under this section.
- j. **Office of Police Accountability and Transparency** or "OPAT" refers to the Office of Police Accountability and Transparency established by the City of Boston, and whose purpose includes "investigating complaints of Boston Police Department misconduct".
- k. **POST** refers to the Massachusetts Peace Officer Standards and Training Commission, established to "improve policing and enhance public confidence in law enforcement by implementing a fair process for mandatory certification, discipline, and training for all peace officers in the Commonwealth".
- l. **Public release** refers to publication or other public disclosure of body-worn camera footage by the Department, including through an official City or Department website, official press release, official digital platform, or other public method reasonably calculated to provide broad public access. Such a release and any activity or release decisions following, shall be carried out in service of the public interest.
- m. **Preliminary public transparency report** refers to a written public report issued by OPAT concerning an incident of public interest that summarizes the known circumstances of the incident, identifies the existence and status of body-worn camera footage, states what footage or portions are being released or withheld, and explains the basis and expected timeline for any continued withholding.
- n. **Reasonably segregable portion** refers to any portion of body-worn camera footage that may be disclosed after redaction, editing, muting, blurring, cropping, or other lawful limitation that removes exempt or protected information while preserving the remainder for release.
- o. **Serious bodily injury** refers to bodily injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in protracted loss or impairment of the function of any bodily member or organ.
- p. **Release decisions** refers to determinations concerning whether body-worn camera or dashboard camera footage in the possession, custody, or control of the Boston Police Department shall be publicly released, partially released, redacted, or temporarily withheld under this section.

B. General Rule of Disclosure.

In accordance with CBC Section 11-1, not later than seven (7) calendar days after an incident of public interest, OPAT shall issue a preliminary public transparency report. As part of that report, the Executive Director of OPAT, shall initiate the public release of relevant portions of body-worn camera footage that, in OPAT's judgment, may be lawfully and fairly released at that stage through redaction, blurring, muting, cropping, or other limitation. A preliminary release under this paragraph may consist of selected relevant portions rather than the full recording, provided that the report clearly states that the investigation remains ongoing and that additional footage may later be released pursuant to this section.

If OPAT determines that no footage should be identified for preliminary release within seven (7) calendar days, or if Corporation Counsel files a written legal objection to an ordered preliminary release, OPAT shall nonetheless issue the preliminary public transparency report within that time stating what footage exists, whether OPAT identified any portion for preliminary release, the categories of information withheld, the specific subsection or subsections authorizing the withholding or other precise legal authority relied upon, the exact legal citation and any docket or order number relied upon, and the date on which OPAT shall next review the matter for possible partial release.

C. Manner of Release.

Public release under this section shall be made by: (1) posting the footage in a publicly accessible platform; (2) posting any related written findings, delay determinations, updates, and reports required by this section in the same or a linked publicly accessible location; (3) identifying, to the extent lawful and appropriate, the date of the incident, general incident type, and date of release; and (4) maintaining the released footage and associated written records online for not less than three years, unless a longer period is required by law or record retention schedule.

D. Notice to Families and Affected Persons.

Where an incident of public interest results in death or serious bodily injury to a member of the public, the ED shall make reasonable efforts, before public release, to provide notice of the planned release to: (1) the injured person, if living and capable of receiving notice; (2) the person's parent or legal guardian, if the person is a minor; (3) the next of kin or lawful representative of a deceased person; and (4) any other person designated by rule of the Department consistent with this section.

E. Confidential Family Viewing.

Where an incident of public interest results in death or serious bodily injury to a member of the public, the Department shall, where lawful and reasonably practicable, offer an opportunity for a confidential pre-release viewing of relevant body-worn camera footage to the injured person or, in the event of death, to the next of kin or lawful representative.

A confidential family viewing under this subsection: (1) shall occur subject to such timing, security, and redaction conditions as are reasonably necessary to comply with law and protect information lawfully withheld under subsection (f); (2) shall not create a right

to obtain a copy of footage before public release; (3) shall not create a right to redistribute, record, photograph, or publicly describe privileged or protected information obtained solely through the viewing; and (4) may be postponed only upon written findings consistent with subsections (f) and (g).

F. Construction.

Nothing in this section shall be construed to require disclosure prohibited by federal law, state law, or court order; provided, however, that any withholding, delay, or redaction shall be narrowly tailored, time-limited, and limited to the minimum portion necessary.

G. Enforcement.

By and through the Commission pursuant to M.G.L c.233 s.1, the ED and the Commission's Constable shall have the authority to enforce the provisions of this Ordinance.

In addition, OPAT may refer repeated or material noncompliance to the Mayor, the City Council, and any other appropriate authority and may recommend corrective action, policy revision, or additional training.

The remedies provided in this subsection are cumulative and shall not be construed to displace any other remedy available by law.

H. Severability.

The provisions of this section are severable. If any provision, sentence, paragraph, subsection, or clause of this section, or the application thereof to any person or circumstance, shall be adjudged invalid, such judgment shall not affect or impair the validity of the remainder of this section or its application to other persons and circumstances.

Section 12-17.22. Establishing a New Constable Position for OPAT.

There shall be a Constable position established in the OPAT to assist OPAT in their efforts of enforcing the provisions of this ordinance. They shall be designated as a special municipal employee and appointed by the Mayor. The Constable shall not be a current employee of the Boston Police Department, OPAT, or the Law Department, or have been so employed within the preceding five (5) years. The Constable shall have authority to review all serious discipline matters referred under Section 12-17.11(E), to request hearings, subpoena witnesses and records, administer oaths, receive written submissions, and issue written disciplinary recommendations. The Constable shall also be responsible for providing the Executive Director with an annual report on anticipated legal fees to be associated with enforcing the provisions of the ordinance. The Executive Director shall submit such estimates as required by Section 48 of the Charter.

The Constable shall issue public rules of procedure, conflict-of-interest standards, and recusal standards. The City shall provide staff support, translation, technology, and independent legal representation sufficient for the Constable to perform their duties.

Section 12-17.23. Civil Claims, Lawsuits, and Settlements Review.

Whenever the City receives notice of a civil claim, lawsuit, demand, judgment, settlement, or payment arising from allegations of excessive force, police brutality, unlawful search or seizure, wrongful death, false arrest, retaliation, or other serious officer misconduct, the Law Department shall transmit notice and relevant non-privileged records to OPAT within ten (10) calendar days. OPAT shall conduct a pattern review of each such matter and shall determine whether the incident reveals failures of supervision, training, policy, discipline, or officer retention. OPAT shall publish aggregate quarterly and annual reporting on the number, type, status, and taxpayer cost of such matters and shall recommend corrective action where patterns or repeat actors are identified.

Section 12-17.24. Public Accountability Database and Independent Audits.

OPAT shall maintain a searchable public accountability database, updated not less than quarterly, containing aggregate and matter-level information to the extent permitted by law concerning complaints, incidents of public interest, body-worn camera release deadlines and outcomes, sustained findings, recommended discipline, actual discipline, override decisions, Board review outcomes, civil-claim reviews, settlement amounts, promotion and assignment waivers, POST referrals, and other accountability indicators. In addition, the OPAT Commission shall cause an independent outside audit to be conducted not less than once every two (2) years evaluating OPAT case handling, Department compliance with disclosure deadlines, disciplinary override patterns, subpoena compliance, retaliation complaints, and racial and geographic disparities in complaint outcomes. Audit findings shall be publicly released and presented at a public hearing of the City Council.

Section 12-17.25. Anti-Retaliation and Whistleblower Protections.

No person shall retaliate against a complainant, witness, officer, employee, or OPAT staff member for filing a complaint, providing information, testifying, producing records, cooperating with OPAT or the Independent Police Discipline Review Board, or communicating with the Massachusetts Peace Officer Standards and Training Commission. Retaliation shall include discharge, demotion, suspension, reassignment, threats, harassment, denial of promotion, denial of benefits, or any adverse action reasonably likely to chill protected participation. OPAT shall have authority to receive and investigate retaliation complaints. Any substantiated retaliation finding shall be reported to POST where required by law or rule and shall constitute an aggravating factor for discipline.

Section 12-17.27. Independent Counsel and Separate Budget.

OPAT, the Constable, and any audit function created by this chapter shall have access to independent outside counsel for subpoena enforcement, litigation, advisory work, and conflict matters, and shall not be required to rely exclusively on the Law Department where a conflict, appearance of conflict, or oversight-related need exists. The Mayor shall submit, and the City Council shall consider, a separate annual budget line item for OPAT and the Independent Police Discipline Review Board. The proposed annual appropriation for OPAT and the Board combined shall not be less than the prior year's appropriation, except by written explanation submitted to the City Council and the public. OPAT may request supplemental appropriations where needed to comply with statutory deadlines, subpoena enforcement, or audit requirements.

SECTION 3. Amendment to Commission Review and Reporting Duties.

Section 12-17.4(D)(1) of the City Code, Powers and Duties of the Commission, is hereby amended by adding the following new subsections:

(g) The number of incidents of public interest reported under Section 12-17.21; the number of preliminary public transparency reports issued within seven (7) calendar days; the number of incidents in which relevant footage portions were publicly released within seven (7) calendar days; the number and percentage of incidents in which body-worn camera footage was publicly released within thirty (30) calendar days; the number of delayed release determinations; the average time to preliminary release and final release; the number of Civilian Review Board recommendations for discipline; the number of Police Commissioner disciplinary determinations issued within thirty (30) calendar days; the number of cases in which the Police Commissioner accepted, reduced, or rejected the recommended discipline; the number of matters referred to the Independent Police Discipline Review Board under Section 12-17.22; the number of Board decisions issued; the number of final disciplinary determinations implemented after Board review; the number of cases in which no written disciplinary determination issued by the required deadline; the categories of reasons stated for any departure from the recommended discipline; the number of complaints and matters transmitted to the Massachusetts Peace Officer Standards and Training Commission or its Division of Police Standards; the number of sustained findings, disciplinary recommendations, and override determinations transmitted to the Massachusetts Peace Officer Standards and Training Commission; the number of civil claims, lawsuits, and settlements transmitted to OPAT for review under Section 12-17.23; and, to the extent known to OPAT and permitted by law, the number of matters in which the Massachusetts Peace Officer Standards and Training Commission provided notice of action or requested supplemental information.

(h) The Commission shall publish and maintain the public accountability database required by Section 12-17.25 and shall oversee independent audits conducted under that section.

SECTION 4. Amendment to Executive Administration Duties.

Section 12-17.6 of the City Code, Powers and Duties of the Executive Administration and Executive Director, is hereby amended by adding the following new subsection:

(D) With respect to Sections 12-17.21 through 12-17.27, OPAT Staff shall receive body-worn camera footage and related incident materials transmitted by the Department for preliminary transparency review, prepare and publish the preliminary public transparency reports required thereunder, maintain the monthly reports, delayed release determinations, and audit logs of confidential oversight briefings required thereunder, screen complaints and critical-incident matters for transmission obligations under Chapter 6E and applicable regulations or directives of the Massachusetts Peace Officer Standards and Training Commission, assist complainants who request help filing with the Massachusetts Peace Officer Standards and Training Commission, transmit sustained findings and required disciplinary and critical-incident records to the Massachusetts Peace Officer Standards and Training Commission where required by law or rule, provide administrative and record support for the Independent Police Discipline Review Board, compile aggregate data for public reporting, conduct pattern reviews of civil claims and settlements, review promotion and assignment notices transmitted under Section 12-17.24, arrange independent audits, and recommend corrective action, policy changes, or further oversight where patterns of delay, overbroad withholding, retaliation, noncompliance, or failures of state-reporting coordination appear.

SECTION 5. Amendment to Civilian Review Board Disciplinary Recommendation Process.

Section 12-17.11(E) of the City Code, Civilian Review Board Process, is hereby amended to read as follows: "If the Civilian Review Board makes a sustained finding and recommends disciplinary action, the recommended discipline shall be presumptively implemented. Within thirty (30) calendar days of receipt of the recommendation, the Police Commissioner shall issue a written disciplinary determination. If the Police Commissioner accepts the recommended discipline, that determination shall be final. If the Police Commissioner declines to impose the recommended discipline, or imposes lesser discipline, the Police Commissioner shall issue a written decision setting forth with particularity the factual, legal, and disciplinary-matrix basis for the departure, including all aggravating and mitigating factors relied upon, and shall transmit that decision to the Civilian Review Board, the OPAT Commission, the Independent Police Discipline Review Board, the Mayor, and the Boston City Council. If the recommended discipline consists of suspension exceeding thirty (30) calendar days, demotion, termination, placement on a do-not-promote list, removal from a specialized unit, or any discipline arising from an incident of public interest, any such decision declining or materially reducing the recommended discipline shall be deemed preliminary and the matter shall be referred within seven (7) calendar days to the Independent Police Discipline Review Board for review pursuant to Section 12-17.22. The Board shall review the record, may conduct a public or confidential hearing as permitted by law, and shall issue a written disciplinary determination within thirty (30) calendar days of referral. Except to the extent prohibited by state law, collective bargaining law, or court order, the Board's disciplinary determination in a referred matter shall be binding upon the Department. If implementation of the Board's determination is claimed to be prohibited by law, the Police Commissioner and Corporation Counsel shall jointly issue, within fourteen (14) calendar days, a written statement citing the exact legal authority and specific facts supporting that claim, and OPAT shall publicly post a redacted version within three (3) business days. A redacted public version of any override decision and any Board determination shall be posted by OPAT within three (3) business days. If the Police Commissioner requires additional time because of a pending criminal matter, grievance, arbitration, or other legally required process, the Police Commissioner shall issue a written extension notice before the applicable deadline expires, stating the basis for the extension and the date by which a final written disciplinary determination shall issue. Failure to issue either a required written disciplinary determination or a required written extension notice within the applicable time shall be reported by OPAT as noncompliance in its next quarterly public report."

SECTION 6. Amendment to Public Reporting of Complaints and Discipline Outcomes.

Section 12-17.16(C) is hereby amended by adding the following sentence at the end thereof: "Public reporting under this subsection shall, to the extent permitted by law, include for complaints in which the Civilian Review Board makes a sustained finding and recommends discipline the recommended discipline; the discipline, if any, actually imposed; the date of the recommendation; the date of the Police Commissioner's written disciplinary determination; whether the Commissioner accepted, reduced, or rejected the recommendation; whether the matter was referred to the Independent Police Discipline Review Board under Section 12-17.22; the date and outcome of any Board review; whether a written extension notice issued; the stated basis for any departure from the recommended discipline, grouped by category; whether the matter was transmitted to the Massachusetts Peace Officer Standards and Training Commission or its Division of Police Standards; whether the officer was subsequently promoted, transferred to a specialized unit, or retained in supervisory status; and aggregate counts of POST-related referrals, sustained-finding

transmissions, override transmissions, Board review referrals, civil-claim reviews, and promotion or assignment waiver notices.”

SECTION 7. Conforming Renumbering.

If final codification of Section 12-17.21 or any subsection thereof differs from the numbering used in this ordinance, the City Clerk and Corporation Counsel may make non-substantive renumbering and cross-reference corrections necessary to effectuate the purposes of this ordinance.

SECTION 8. Effective Date.

This ordinance shall take effect thirty (30) calendar days after passage.

Filed on: July 17, 2026