

TACOMA POLICE DEPARTMENT PROCEDURES MANUAL

06/2020 (n)

BODY WORN CAMERAS

Body worn cameras (BWC) are a valuable tool for promoting transparency in law enforcement by recording citizen contact with police officers. The Tacoma Police Department (TPD) uses body worn cameras to contemporaneously and objectively document citizen contacts. Video footage produced by body worn cameras may be used as evidence in civil or criminal investigations, unless prohibited by law, reviewed administratively for officer compliance with department policies (as set forth below), used as a tool in law enforcement training, and utilized as a reference in incident documentation. This paragraph is not subject to modification during the term of the parties' current collective bargaining agreement unless otherwise required by law.

It is the policy of the Tacoma Police Department that commissioned personnel working in a patrol function shall wear body worn cameras to record their encounters on duty.

The City agrees that it will not implement any changes to this policy during the term of the parties' current collective bargaining agreement that impact mandatory subjects of bargaining without first bargaining the decision. If subsequent changes in Federal or State law mandate changes that impact mandatory subjects of bargaining, the City agrees to bargain the impacts upon request.

A) Definitions

- 1) Advisement
Statement made by an officer that a communication, conversation or interaction with a citizen is being recorded.
- 2) Activation
The process that turns on the body worn camera and causes it to record or to store audio and video data.
- 3) Body Worn Camera
Camera system that captures audio and video signals, capable of being worn on an officer's person that includes, at minimum, a camera, microphone, and recorder.
- 4) Body Worn Camera Videos
Recorded media consisting of audio-video signals recorded and digitally stored on a storage device or portable media.
- 5) Labeling of Video

Marking a video with the incident (ID) number and category.

- 6) Evidence.com
A cloud based data warehouse where body worn camera video footage is stored and retained.
- 7) Involved Officer
Any officer who used or directed the use of deadly force.
- 8) Retention of Video
Retention of video refers to how long a video captured on body worn camera is kept or retained by the Tacoma Police Department. A video is retained according to its category.
- 9) Surreptitious Recording
A recording made without the knowledge of one or more of the parties to a conversation or communication and is a violation of the Washington Privacy Act, [Chapter 9.73 RCW](#).
- 10) Body Worn Video Review Team
A unit within the City of Tacoma Public Records Office comprised of Public Disclosure Video Review Analysts trained in the retention, redaction, and release of Body Worn Camera videos. Assigned personnel are responsible for the retention, redaction, release, and deletion in accordance with applicable records retention and public records disclosure laws. Recordings shall be retained for a period consistent with the requirements outlined by applicable records retention schedule. Public Disclosure Video Review Analysts will have a working knowledge of the methods and procedures related to the duplication, storage and retrieval of body worn camera videos.
- 11) Witness Officer
A witness officer is a TPD officer who observes or has firsthand knowledge of the events surrounding an in-custody death or the use of deadly physical force by another officer, and other than observing the incident, did not use deadly physical force. Additionally, an officer who observes or has firsthand knowledge of the events surrounding an officer's direction to another to use deadly force.

B) Officer Responsibilities

- 1) Training
Prior to wearing and operating a body worn camera, officers are required to successfully complete department authorized body worn camera training. This training will include:
 - **Department Policy on BWC's**
 - **System preparation and operation**
 - **Placement of the BWC**
 - **Procedures for downloading and tagging recorded data**
 - **Scenario based exercises that replicate situations that officers may encounter**Officers shall attend refresher training on BWC's as directed by the department

- 2) Inspection

Officers shall inspect their BWC equipment at the start of every shift. If an officer discovers that the BWC equipment is not functioning, he/she will be responsible for notifying his/her supervisor, documenting the equipment failure in CAD, and ensuring that the equipment is submitted to the Computer Support Technician for repair. Officers will obtain a spare BWC from their sergeant or patrol operations desk officer when their BWC is being repaired or replaced.

3) Requirement to Wear the Body Worn Camera

All uniformed officers assigned a body worn camera are required to wear the camera while on duty. Officers shall affix their camera to the chest area of their uniforms where it is unobstructed by the uniform itself or equipment. This does not include circumstances in which the camera becomes unintentionally obstructed during police activity. Officers working in an off-duty assignment should only activate their BWC during enforcement and investigative contacts with civilians. Privately owned body worn cameras are not permitted.

4) Requirement to Use the Body Worn Camera

Officers are required to use their body worn cameras to record their law enforcement activity, to do so consistently and in accordance with department policy.

5) Procedures on Use of Body Worn Camera

- **Activation of the Body Worn Camera**

- a) Starting and ending the recording, when circumstances and officer safety permit:

- i. Officers shall activate the body worn camera prior to exiting the vehicle to any dispatched law enforcement activity. Nothing in this policy prohibits the officers from activating the camera earlier.
- ii. Officers shall activate the body worn camera when involved in any manner in a police pursuit, vehicle follow, fail to yield, and active police perimeter.
- iii. Officers shall activate the camera as soon as practical upon making the decision to engage in any self-initiated law enforcement activity.
- iv. Once the camera is activated, the officer shall leave it on until the incident has concluded. Officers should cease recording when their part of the active investigations is completed, and there is little possibility that the officer will have further contact with any person involved in the event.
- v. In an officer involved shooting, officers shall turn their cameras off upon instruction from their supervisor.
- vi. Officers should record on the body worn camera reasons for turning off the body worn camera if the officer stops the recording prior to the conclusion of the law enforcement activity.
- vii. Officers may, at their discretion, activate their BWC any time they determine it would be beneficial to capture an event or activity.
- viii. If circumstances prevent activation at the start of an event, the officer will activate the BWC as soon as practicable.

- b) Activation Amnesty

- i. No officer will be subject to discipline for failing to activate a camera for any reason for the first month or 16 shifts, whichever occurs later,

- after he or she is assigned to wear a BWC. Evidence of a failure to activate a BWC during the amnesty period shall not be used or considered for performance evaluations or discipline after this amnesty period
- ii. The amnesty period will apply again anytime an officer is reassigned to an assignment without a BWC for a period of six months or more, and then returns to an assignment with a BWC.
 - iii. Officers assigned to assignments without a BWC who work extra shifts on assignments with a BWC will not be subject to discipline for an unintentional failure to activate the BWC.
- c) Decision to Not Record
- i. 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 body worn camera. The decision to not record law enforcement activity shall be made by the officer wearing the camera and shall be determined by facts and circumstances, which must be justified. Facts supporting such a decision may include the following:
 - **When unsafe or impractical** – Law enforcement activity requiring a response that physically prevents an officer from activating the camera. 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.
 - **Sensitive communications** – Law enforcement activity involving sensitive communications, matters of law enforcement intelligence or where recording the encounter could hinder a criminal investigation.
 - **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 this is no requirement that an officer turn off the camera for a citizen who objects to having the interaction recorded.
 - ii. Officers shall document by written report or CAD any decision to not activate the camera or to turn off the body camera prior to the conclusion of the law enforcement activity, and their reasons for doing so.
- **Advisement – When Required**
 - a) 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.
 - i. Officers conducting traffic stops while equipped with a body worn camera 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.

- ii. Prior to a custodial interrogation, officers shall inform arrested persons that they are being audio and video recorded with a body worn camera. This statement, along with the Miranda advisement, shall be included in the recording.

- **Deactivation of BWC – Prohibitions and Exceptions to Recording**

- a) Deactivation at Conclusion of Incident. Once activated, and subject to all exceptions set forth throughout this policy, the officer shall not purposely turn off the camera until the officer's involvement in the incident has concluded. The officer should cease recording when his or her part of the active investigation is completed, and there is little possibility that the officer will have further contact with any person involved in the event.
- b) Temporary Deactivation of Audio Only. Audio recording contemporaneous with a BWC may be temporarily disabled for conversations with other officers or persons not involved with the call.

- **Recording Prohibited**

Unless specifically authorized by the chief of Police, the BWC shall not be used to record:

- a) Anything not involved with official duties
- b) Communications with other police personnel while not on a call
- c) Communications with undercover officers or confidential informants
- d) When on break or otherwise engaged in personal activities
- e) While in a jail unless for a direct law enforcement purpose
- f) While in the interiors of medical, mental health, counseling, or therapeutic facilities unless investigating a crime in progress (e.g. recording of an investigation of a crime committed at the facility, the drawing of blood at a facility following a DUI, the taking of a statement from a suspect or witness while in a facility, etc., would be permitted)
- g) While within the police station or substations, except when taking an in station report or placing a suspect into one of the temporary holding cells in the police station. If so, the officer should announce as he/she enters the station that he/she is recording. The officer should turn off his/her recording after the suspect is placed and secured in the temporary holding cell. The officer should activate his/her recording each time he/she has an interaction with the suspect in the cell until the suspect is released or transported to jail
- h) Any privileged conversations, such as attorney-client or labor privileged conversations

- **Discretionary Recording**

It is permissible under this Policy for officers to exercise reasonable discretion to not record events in the following circumstances:

- a) When the officer is in a location where individuals have a reasonable expectation of privacy (such as a bathroom or locker-room) and the officer is not there to effect an arrest or serve a warrant
- b) When respect for an individual's privacy or dignity outweighs the need to record an event. Such circumstances may include (without limitation) natural death scenes, death notifications, child or sexual assault victim interviews, and cultural or religious objections to being recorded
- c) Sensitive communications such as matters of law enforcement intelligence or where the recording could hinder a criminal investigation
- d) When the officer has an articulable basis, based on the facts and circumstances of the particular situation, that recording would be unsafe

6) End of Shift Responsibilities

Officers shall prior to the end of their shift or as soon as practical, follow the protocol to label, categorize, and upload videos to Evidence.com. Additionally officers shall download BWC footage as soon as practicable after a serious incident or when storage capacity is reaching its limit.

- **Officers unable to categorize body camera video prior to the end of their shift** shall notify a supervisor prior to securing and complete categorization at the beginning of their next regular or overtime shift, whichever occurs first; video footage shall be downloaded prior to going on days off.
- **Officers with take home vehicles who have to transfer videos at the end of shift** can dock their BWC at police operations ensuring that the upload process has begun on Evidence.com. Due to the length of time that it takes for videos to upload, it is not practical for officers to monitor the upload process. If a use of force or other significant incident was recorded, officers will contact a supervisor for direction. At the beginning of their next shift, officers will retrieve their BWC and confirm the upload process was completed. If the process did not complete, they will restart the upload process immediately at the beginning of their shift.
- **If an officer is involved in a shooting or other serious use of force and/or is suspected of wrongdoing that requires the immediate relinquishment of the officer's police powers**, the officer's supervisor should take physical custody of the BWC and will be responsible for downloading the data. The supervisor will take custody of the BWC out of public view. When an officer uses deadly force, the investigating agency may supervise the downloading of the video.

7) Document Use of the Body Worn Camera

Officers shall document in their police reports that they operated a body worn camera. In situations where no police report is written, officers shall indicate through CAD that they operated a body camera.

8) Video Not a Substitute for, But May Supplement, a Written Report

An incident captured on the body worn camera is not a substitute for a written police report. Officers must write a police report, if the situation requires, and may use the body worn camera video to supplement their documentation of the incident.

9) Report Problems

Officers shall promptly report to supervisor and/or computer support technician any problems they may encounter with the body worn camera or its operation.

10) Use of Spare Camera

Officers using a spare camera will contact supervisor for proper camera assignment.

11) Commuting

An officer who is not in possession of their body worn camera while commuting to and from their assigned shift and is involved in law enforcement activity shall document in their police reports that they did not operate a body worn camera. In situations where no police report is written, officers shall indicate through CAD that they did not operate a body camera. This documentation should include the reason for not operating a body worn camera.

C) Unauthorized Use of Body Worn Cameras and Video

All employees of the City of Tacoma and Tacoma Police Department, including commissioned officers and civilian personnel, shall abide by the policies and procedures related to body worn cameras and body worn camera videos as set forth in this policy.

Employees of the police department are prohibited from surreptitiously recording any other employee of the department or any other person.

- 1) Employees may not use body worn cameras for non-work related purposes or otherwise operate the body worn camera outside their legitimate law enforcement duties.
- 2) All body worn camera videos are the property of the Tacoma Police Department. Dissemination outside of the agency is strictly prohibited, except as required by law and pursuant to the provisions of Tacoma Police Department policy.
- 3) Employees are prohibited from accessing the cloud storage site Evidence.com except for legitimate law enforcement purposes, including authorized review as described in subsection G (Review of Body Camera Video) of this policy, or otherwise for work related to their job assignment. Any employee who accesses video in the Evidence.com system should provide a note in the system documenting their reason for video review.

D) Downloading of Videos

The only personnel allowed to download videos will be the public disclosure specialists, Body Worn Camera Supervisors and Administrators, Criminal Investigations Division, selected training staff, Internal Affairs, and specially trained department employees. Video downloads will be conducted for law enforcement purposes, purposes set forth elsewhere in this procedure and/or public records requests only.

If any downloads are needed from anyone not listed above, a request will be sent through the standard public disclosure request process.

E) Operation and Oversight of the Body Worn Camera Program

Operation and oversight of the body worn camera program is the responsibility of the Administrative Support Bureau, Body Worn Camera Supervisor.

F) Review of the Body Worn Camera Program

The body worn camera program shall be subject to ongoing review and evaluation by the Tacoma Police Department. The Chief of Police shall designate a committee to serve on a Body Worn Camera Review Board (BWCRB), which shall convene annually, to review the body worn camera program and the body worn camera policy and to make recommendations for the Chief's consideration. The committee shall include representatives from department BWC supervisor, computer support technician, Public Disclosure Video Review Analyst, and department administrative support specialist, Training, Investigations, Patrol, Quartermaster, accreditation, and the collective bargaining units.

G) Review of Body Worn Camera Video

- 1) Officers may view their own body worn camera video at any time in accordance with this policy.
- 2) Recordings may be reviewed by individuals other than the recording officer in any of the following situations:
 - **By officers prior to completing their police reports or providing a statement** pursuant to an internal affairs or criminal investigation, subject to the following:
 - a) All officers in any administrative investigation will be allowed to view all footage of the incident prior to any interview or answering questions related to any administrative investigation.
 - b) Involved and witness officers in a deadly force investigation will be provided with and allowed to review relevant body worn camera footage prior to any interview or answering any questions. The body worn camera footage viewed by the involved and witness officer(s) should show actions, items or other relevant 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.
 - c) In the event there is a dispute over which body worn camera footage should be viewed by the involved or witness officer(s), the legal or bargaining representative of the officer, the lead deadly force investigator, and the prosecutor or their designee may consult with one another prior to the officer making a determination about providing a statement.
 - d) BWC Supervisor or their designee will lock any involved or witness officer's ability to view body worn camera video of these incidents pending notification from an authorized investigative supervisor.
 - **By any supervisor conducting a Blue Team administrative review. Review of** video shall be related to the specific complaint (s) and not used as the basis to randomly search for other possible violations. Discovery of other allegations during this review shall require the supervisor to articulate the purpose of expanding the scope of the review. Inadvertent discovery of significant policy violations (defined as those violations that would amount to a crime, excessive force, or retaliation/discrimination/biased based policing) noted during this review but not mentioned in the complaint shall be addressed at the lowest reasonable level, subject to collectively bargained disciplinary standards. Inadvertent discovery of all other policy violations (such as rudeness or procedural violations) shall not be the basis of disciplinary action. Any disagreements about the processing of these violations shall be handled between the Chief's office and the collective bargaining unit's president or representative.
 - **By a supervisor investigating a specific act of officer conduct alleged in a** complaint of misconduct. Review of video shall be related to the specific complaint and not used as the basis to randomly search for other possible violations. Supervisors are authorized to review recordings to investigate the merits of a specific complaint prior to a formal complaint being filed. If appropriate, the supervisor may allow the complaining party to review the footage with the supervisor as a means of addressing the concerns without a formal complaint being taken.
 - **By technical support staff for purposes of assessing proper functioning of** body worn cameras.
 - **By the City and County Prosecutors.**

- **By an Internal Affairs investigator who is participating in an official IA** investigation investigating a specific act of officer conduct alleged in a complaint of misconduct. Review of video shall be related to the specific complaint and not used as the basis to randomly search for other possible violations.
- **By a department investigator, or officer with the approval of a supervisor,** who is participating in a criminal investigation providing the requested recording is specific to that investigation.
- **By legal counsel and/or union representation representing an officer in a** critical incident prior to providing a statement pursuant to an administrative inquiry.
- **Training – Recordings may be reviewed for training purposes. Prior to any** recordings being used for training purposes all involved officers will be notified. If an involved officer objects to showing a recording, his/her objection will be submitted to the training Sergeant to determine if the training value outweighs the officer's objection. Inadvertent discovery of minor policy violations shall not be the basis of disciplinary action.
- **By an employee's legal representative and/or bargaining unit representative** who is involved in representing the employee in an administrative investigation or a criminal investigation.
- **By the City's legal representative and/or bargaining unit representative** who is involved in representing the City in an official matter, such as an administrative investigation, a lawsuit, or a criminal investigation.
- **Pursuant to a subpoena or public records request.**
- **Specific acts showcasing the Department that reflect positively on TPD,** may be of interest to the public, and are to be made available to the media upon approval of the Chief of Police or designee.
- **Body worn camera video may not be randomly reviewed for any reason.**
- **The Tacoma Police Department acknowledges that video recordings provide** only a two dimensional perspective with limited vantage points of an incident. Consequently, no department member will ever rely solely upon the review of video recordings as the basis for discipline against an officer. Instead, the department shall review and consider all available evidence (including witness statements, officer interviews, forensic analysis, documentary evidence, etc.), prior to imposing discipline against an officer.

GPS Associated with BWC. In the event GPS or other location capabilities (hereinafter "GPS") are available with the BWC, the GPS will not be randomly reviewed or used for disciplinary purposes, but may be used for operational reasons for the purpose of officer safety, public safety, or efficient deployment of resources.

H) Retention of Body Worn Camera Videos

1) General

Videos related to officer-involved shootings, critical incidents, homicides, serious sexual assaults, and cases in which TPD has received a notice to preserve evidence shall be retained in Evidence.com pursuant to applicable Records Retention schedules.

The TPD Records manager shall be responsible for retention and coordination with City of Tacoma Office of Public Records regarding video of incidents listed above. Videos related to unsolved homicides and sexual assaults shall be kept consistent with the department policy for records retention.

- 2) Videos related to internal affairs investigations shall be transferred to a format compatible with Blue Team and made part of the file. The videos will be retained in accordance with the Washington State Records Retention Schedule.
- 3) All other body worn camera videos shall be retained in Evidence.com for 12 months, and then purged per applicable Records Retention Schedules.
- 4) Videos redacted for a public records request shall be retained for 24 months after the request and then deleted.
- 5) Inadvertent/Accidental Activation
An officer may inadvertently/accidentally record themselves or others. These particular inadvertent/accidental recordings typically do not meet the statutory definition of a public record (as described in RCW 40.14.010) because they are not made "in connection with the transaction of public business" and as such may be deleted.

In the event of an accidental activation of the body worn camera where the resulting recording is of no perceived investigative or evidentiary value, the recording employee may request that the body camera video in question be deleted forthwith by submitting a written request, by email, including the date and time of the inadvertent/accidental recording through their chain of command to the Bureau Commander or designee. The Bureau Commander or designee shall approve or deny the request and forward the decision to the TPD Records Manager for action.

- 6) Employees shall not intentionally tamper with, alter, or delete video.
 - **Exception:** This does not apply to personnel tasked with system maintenance who purge videos under established guidelines.

I) **Release of Body Worn Camera Videos**

1) For Criminal Justice Purposes

Body worn camera videos may be accessed for criminal discovery purposes directly by prosecutors, whose offices shall have an account through Evidence.com.

Prosecutors will be able to locate the existence of a body camera video by its reference in the police report and/or CAD report, and may search for videos related to pending cases by inputting the law enforcement incident report number into Evidence.com. Discovery of body worn camera videos to the defense bar shall be made through the prosecutor.

2) To the Public

Body worn camera videos will be made available to the public through public records requests pursuant to Chapter 42.56 RCW. Public records requests for body worn camera videos should be processed by the City of Tacoma Public Records Office. Prior to release, videos from body worn cameras will be reviewed and redacted by the Body Worn Video Review Team and will be consistent with statutory exemptions under Washington law, including the following:

- **The image of any witness who expresses safety concerns or who requests that their identity not be disclosed;**
- **The image of domestic violence, sexual assault, trafficking or stalking victims;**
- **Child victims, child witnesses and juveniles in the court system;**

- **Persons experiencing a medical emergency or receiving medical treatment;**
 - **Images that are highly offensive to a reasonable person, such as images of deceased or seriously injured persons;**
 - **Persons with apparent mental illness in crisis or who are detained for a mental health evaluation; or**
 - **The image of anything that reveals personal identifying information.**
- 3) The City of Tacoma Public Records Office may provide third party notification to allow any person whose privacy may be impacted by the release of a body worn camera video time to file a petition for injunctive relief.
 - 4) Citizens shall not be allowed to view body worn camera recordings except in the instances listed above.
 - 5) Officer Involved Shooting/In-Custody Death Cases
After receiving a Public Records Request, it is the Department's intent to release video related to an officer involved shooting or in-custody death only after the involved officer(s) have been interviewed by independent investigators. The Chief reserves the right to further delay the release depending on investigative need or for the best interests of the parties involved or the City; provided, the City shall comply with the Public Records Act.