

CPAC initial draft – Council presentation

CPAC Presentation for Council. CPAC – 2020. Requesting 29 SEP 20 appearance

Summary: CPAC has been and continues to be engaged in the Body Worn Camera Policy documents and strongly encourages changes that will enhance trust, accountability and effectiveness of the cameras upon introduction and future use.

**(The proposed changes mentioned by the Policy Subcommittee are incorporated in the TPD BWC Camera Policies Draft B, and then as a separate document after the TPD Policy Document)**

# TACOMA POLICE DEPARTMENT PROCEDURES MANUAL

06/2020 (n)

Ref.: P?

## BODY WORN CAMERAS

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Body worn cameras 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, 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.

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.

### 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 employed, or attempted to employ, force contemporaneous to 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) TARU

Technical Assistance Response Unit (TARU), a unit within the Tacoma Police Department comprised of civilian employees, Public Disclosure Specialists trained in the operations, use and deployment of the body worn of body worn cameras and related systems. TARU personnel are responsible for the storage, retention, release, and deletion in accordance with State records retention and public records disclosure laws. Recordings shall be retained for a period consistent with the requirements outlined by state law, or TPD's own records retention schedule if more stringent. Public Disclosure Specialists will have a working knowledge of the methods and procedures related to the duplication, storage and retrieval of body worn camera videos as well as video forensics and evidentiary procedures.

**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.

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 documenting this in CAD, and will ensure 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.

**CPAC recommends adding instruction for officer to ensure camera is fully charged prior to shift that the camera won't die during the shift**

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 camera 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.

**CPAC recommends default should always be to record as long as user has the camera in their possession being worn on the uniform during shift and recording during encounters/activities with residents.**

5) Procedures on Use of Body Worn Camera

□ **Activation of the Body Worn Camera**

a) Starting and Ending the Recording

- 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 matter 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 his/her 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 prior to giving their public safety statements.
- vi. Officers should record on the body worn camera reasons for turning off the body worn camera if the recording is stopped by the officer 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.

**CPAC recommends default should always be to record as long as user has the camera in their possession being worn on the uniform during shift and recording during encounters/activities with residents, including prisoner transports**

b) Activation Amnesty

- 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. 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.

**CPAC recommends shortening the 16 shift/1 month to 1 week/e shifts maximum amnesty for failure to record on the basis that the requirements and process to record are very simple and instinctual.**

**CPAC recommends the documentation of failure to record during any amnesty period for review regarding personnel and trends**

c) Decision to Not Record

**(CPAC continues to discuss this element with regard to oversight, accountability, equitable action and concerns about misuse. CPAC reserves space in the future to offer a specific recommendation on this item.)**

- 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.

**CPAC recommends default should always be to record as long as user has the camera in their possession being worn on the uniform during shift given the ease of activation.**

#### □ 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.

#### 6) End of Shift Responsibilities

Officers shall prior to the end of their shift or as soon as practical, will 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 BCW 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.

**CPAC recommends a complete prohibition of users uploading videos from home.**

- **If an officer is involved in a shooting or other serious use of force and/or** is suspected of wrongdoing, 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 Report

An incident captured on the body worn camera is not a substitute for a complete and thorough written police report. Officers must write a police report, if the situation requires, and may not use the body worn camera video as a substitute for, or basis to abbreviate, 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.

**C) Unauthorized Use of Body Worn Cameras and Video**

All employees of the 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.

#### **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 done for law enforcement purposes and/or public records requests only.

If any downloads are needed from anyone not listed above, a request will be sent to public disclosure support specialist.

#### **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.

##### **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 specialist, and department administrative support specialist. , Training, Investigations, Patrol, accreditation and the collective bargaining units.

#### **F) 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 SIRR investigation, subject to the following:
    - a) All officers in an internal affairs investigation will be allowed to view all footage of the incident prior to any interview or answering questions related to an internal affairs investigation.
    - b) Involved officers in a deadly force investigation will be provided relevant body worn camera footage. The body worn camera footage viewed by the involved 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 officer(s), the legal representative of the officer, the lead deadly force investigator, and the prosecutor or their designee can consult prior to the officer making a determination about providing a statement.
- d) Involved officers in a critical incident resulting in the activation of the deadly force investigation will not be authorized to view any body worn camera footage unless and until authorized by the deadly force lead investigator. In addition, BWC supervisor will lock any involved 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. Other significant violations noted during this review but not mentioned in the complaint shall be addressed at the lowest reasonable level. Any disagreements about the processing of these violations shall be handled between the Chief's office and the collective bargaining units' president or representative.
- **By the Use of Force Review Board**
- **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 Director 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 and officer. Instead, the department shall review and consider all available evidence, prior to imposing discipline against an officer.**

**CPAC recommends adding language allowing CPAC to review video on a incident mandatory and upon request of CPAC**

**CPAC recommends that videos be reviewed for bias and then recommends oversight of the various boards, police elements and redaction team for appropriate use of video**

#### **G) 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 until all trial and appellate litigation has been completed. The TPD Investigations Bureau shall be responsible for notification to TARU under these circumstances. 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, then deleted.**

##### **4) Videos redacted for a public records request shall be retained for 24 months after the request and then deleted.**

##### **5) Inadvertent/Accidental Activation**

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 shall approved or deny the request and forward the decision to the TARU Administrator for action.

**CPAC recommends that Tacoma Police Department BWC camera video retention policies incorporate tiered retention system that Las Vegas Metropolitan Police Department uses over and above the elements in 6.G.1 and 6.G.2**

6) Employees shall not tamper with, alter, or delete video.

- ☐ **Exception:** This does not apply to personnel tasked with system maintenance who purge videos under established guidelines.

**CPAC recommends adding a zero-tolerance element on tampering with videos with penalties appropriate for tampering with evidence**

## **H) 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 may be directed to the City Clerk's Office or to the Tacoma Police Department and will be processed by the Public Disclosure Police Administrative Specialist. Prior to release, videos from body cameras will be reviewed and redacted by a Public Disclosure Specialist Redactions 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 which reveals personal identifying information.**

- 3) The Public Disclosure Police Administrative Specialist 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.

CPAC also recommends:

- Detailed, scheduled and thorough review of policy effectiveness, Body Camera use effectiveness and to determine policy additions and modifications that come up over time.
- Submission for the purposes of independent oversight regarding policy (data analysis, lit review, best practice) by the Committee.
- Review to ensure all stakeholders needing access/review are included in policies.
- (Internal to CPAC) Regularly scheduled Policy Subcommittee review of BWC procedures, results, best practices which then are reported to the Committee as a whole.

Summary: CPAC has been and continues to be engaged in the Body Worn Camera Policy documents and strongly encourages changes that will enhance trust, accountability and effectiveness of the cameras upon introduction and future use.

1. Body Worn Cameras:

- Vendor Selection: **CPAC Data and Trends conducted a review of vendor selection and agreed with TPD's selection of AXON as preferred vendor.** (Commonality of use, ease of use, extent others use, public familiarity, cost difference negligible.)

2. Policies:

- Ref 5.b: Amnesty. **CPAC recommends shortening the 16 shift/1 month amnesty for failure to record on the basis that the requirements and process to record are very simple and instinctual.**
- Ref 5.b Amnesty **CPAC recommends the documentation of failure to record during any amnesty period for review regarding personnel and trends.**
- Ref.B Officer Duties. **CPAC recommends adding instruction for officer to ensure camera is fully charged prior to shift that the camera won't die during the shift.**
- Ref 5.c.i.(1) Unsafe to activate: **CPAC recommends default should always be to record as long as user has the camera in their possession being worn on the uniform during shift.** Tapping the button to activate is a momentary action and can be done in nearly all situations.
- Ref: 5: **CPAC recommends instruction to users to have BWC activated during prisoner transports.**

- Ref: 5.2 CPAC recommends adding language allowing CPAC to review video on a incident mandatory and upon request of CPAC.
- Ref 6.(2) End of Shift video upload. CPAC recommends a complete prohibition of users uploading videos from home.
- Ref 6.F Review of video by others. CPAC recommends that videos be reviewed for bias and then recommends oversight of the various boards, police elements and redaction team for appropriate use of video.
- Ref 6.G.3 and 6.G.4. CPAC recommends that Tacoma Police Department BWC camera video retention policies incorporate tiered retention system that Las Vegas Metropolitan Police Department uses over and above the elements in 6.G.1 and 6.G.2.
- Ref 6G6: CPAC recommends adding a zero-tolerance element on tampering with videos with penalties appropriate for tampering with evidence.

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- Detailed, scheduled and thorough review of policy effectiveness, Body Camera use effectiveness and to determine policy additions and modifications that come up over time.
- Submission for the purposes of independent oversight regarding policy (data analysis, lit review, best practice) by the Committee.
- Review to ensure all stakeholders needing access/review are included in policies.
- (Internal to CPAC) Regularly scheduled Policy Subcommittee review of BWC procedures, results, best practices which then are reported to the Committee as a whole.