

## Proposed changes/discussion CPAC with Police Union and City Negotiator

Proposed Changes	Discussion/Decisions
<p>Draft 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.</p> <p><b><i>CPAC recommends default should record all law enforcement activities before and after each contact unless there is a legal or law enforcement reason not too such as confidential informants, citizens wanting to maintain anonymity in reporting a crime, citizens not wanting to be recorded, or statutory reasons not to record like domestic violence scenes.</i></b></p>	<p>CPAC had discussion regarding adding language to for requirement ensure camera is fully charged prior to shift (no objection from union) so the camera won't die during the shift. Added language to encourage officers to turn on their cameras prior to exiting their vehicles.</p> <p>This above discussion can address interest in the default being to record citizen interactions and still allow for legal requirements and legitimate law enforcement reasons not to record (i.e. confidential informants, citizens wanting to maintain anonymity in reporting a crime, citizens not wanting to be recorded, statutory reasons not to record like domestic violence scenes, etc.)</p> <p>The always on paradigm would create battery issues and result in costly storage of excessive footage with little value. The option to record law enforcement activities and citizen encounters is broad and should cover relevant incidents and interests.</p> <p>Language added to policy:</p> <p><i>Officers should default to recording all encounters with residents and enforcement activities in their entirety, unless there is a legitimate law enforcement or legal reason not to.</i></p>
<p>Draft: In an officer involved shooting, officers shall turn their cameras off prior to giving public safety statements</p> <p><b><i>CPAC discussed removing this and continuing the recording</i></b></p>	<p>City employee explained suggested keeping this language. Public safety statements are given, typically in a use of force incident, to provide essential information to investigators/officers on scene to protect the public, while still protecting officers' constitutional rights. This type of statement would include basic facts pertinent to an investigation like whether someone has fled the scene, identifying information of a suspect or vehicle, locations of weapons or evidence on scene, etc.</p> <p>Public safety statements are Garrity compelled and protected, and therefore only useable in administrative proceedings. There is little value in recording these statements and doing so will potentially adversely impact the quality and content of public safety statements.</p>
<p>Draft: TPD will track any known incidents of failure to record or improperly ending a BWC recording</p>	<p>Recording addressed above.</p>

<p><b><i>CPAC recommended that default should always be to record during activities/encounters with residents, including prisoner transports with set consequences for failure to activate.</i></b></p>	
<p>Draft: 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.</p> <p><b><i>CPAC recommends change to one week or 3 shifts, whichever occurs later. CPAC recommends that failure to activate a camera during the amnesty period will be documented to review specific personnel and trends.</i></b></p>	<p>Discussion of this period being the norm. Officers need a grace period for good faith mistakes and building muscle memory. Suggest adding instead the language below:</p> <p>“During the amnesty period any knowing and intentional failure to record will not be subject to amnesty.”</p> <p>“The department will track any known incidents of failure to record or improperly ending a BWC recording.”</p>
<p>Draft: Officers are required to record as much of the law enforcement activity as possible, but sensitivity of a situation may warrant turning off or not activating camera, to include:</p> <ul style="list-style-type: none"> <li>• When unsafe or impractical</li> <li>• Sensitive communications</li> </ul>	<p>Suggested language change:</p> <p>“Failure to record -If an enforcement member fails to activate their BWC, fails to record the entire contact, or interrupts the recording, the enforcement member shall document why the recording was not made, interrupted or terminated. Appropriate disciplinary action shall be taken against any enforcement member who is found to have intentionally failed to adhere to the recording or retention requirements contained in this policy, or to have intentionally interfered with a BWC’s ability to accurately capture video footage.”</p>

<ul style="list-style-type: none"> <li>• When a citizen objects</li> </ul> <p>Officers shall document by written report any decision to not activate or turn off the camera</p> <p><b><i>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.</i></b></p>	
<p>Draft: Officers able to upload data at home or access evidence from non-departmental issued personal devices.</p> <p><b><i>CPAC recommends it to be prohibited for officers to upload videos from home.</i></b></p>	<p>There is a concern that the recommended language is too broad and would cover legitimate existing practices of detectives and others accessing evidence.com from departmentally issued devices off-site or in the field. Union had no issues with data not being uploaded at home or on personal devices.</p> <p>Suggest changing the language to:</p> <p>“Officers shall not access BWC or evidence.com from non-departmental issued personal devices. BWC recordings should not be uploaded or downloaded anywhere other than an authorized TPD facility.”</p>
<p>Draft: Officers may view their own body camera worn video at any time.</p> <p><b><i>CPAC has concerns about officers reviewing footage prior to completing a report or prior to an internal affairs interview involving their conduct.</i></b></p>	<p>Suggest CPAC consider review language that is in line with other peer law enforcement agencies in Washington State. All of which allow review of footage in all cases, except use of force cases where some peers provide some different restrictions on viewing in those limited cases. No policy in Washington State is as restrictive as this recommendation.</p> <p>Seattle allows review of recordings in all instances except Force Investigation Team incidents. The Seattle policy was adopted during their consent decree and was thus reviewed by the Federal Court in association with that process. The Force Investigations Team (FIT) is a specialized investigative unit that was established as a result of the Consent Decree. It is the responsibility of FIT to investigate selected Type II and all Type III Use of Force incidents, including Officer Involved Shootings. The Seattle BWC recordings policy provides as follows:</p> <p>Employees may review their own recorded video except in instances of FIT investigations. The FIT manual outlines when employees may view video in those cases.</p>

	<p>Spokane's policy allows for review of all video except in Spokane Investigative Regional Response Team (SIRR) investigations for use of force, where the officer is permitted to review only video that shows information available from the officer's vantage point and that was information the officer could have used in making a determination to use force. That policy and relevant sections are as follows:</p> <p>By officers prior to completing their police reports or providing a statement pursuant to an internal affairs or SIRR investigation, subject to the following:</p> <p>(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.</p> <p>(b) Involved officers in a SIRR investigation will be provided relevant body camera footage. The body 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.</p> <p>Kent allows review in all circumstances. Kent's pertinent policy section is as follows:</p> <p>Officers may view their own video recordings (and the recordings of other Officers on scene) in accordance with this policy, and may request that other officers or law enforcement personnel from other state or federal agencies review video for law enforcement purposes. In addition, the officer's attorney, KPOA's Executive Board, and KPOA's attorney may view video recordings upon request.</p>
<p>Draft: Retain videos and data for 1 year</p> <p><b><i>CPAC recommends tiered retention policy similar to Las Vegas Metro Police; data retention depends on incident</i></b></p>	<p>Explanation that video pulled for an incident will automatically be retained in a different system.</p> <p>Records retention is governed by Washington State statute, including for BWC recordings. TPD and staff suggest referencing the retention schedule approved by the Local Records Committee in accordance with RCW 40.14.070 as identified in WA SOS Records Management Advice <a href="https://www.sos.wa.gov/_assets/archives/recordsmanagement/advice-sheet-how-long-do-police-body-cam-recordings-need-to-be-kept-(october-2018).pdf">https://www.sos.wa.gov/_assets/archives/recordsmanagement/advice-sheet-how-long-do-police-body-cam-recordings-need-to-be-kept-(october-2018).pdf</a></p>
<p>Draft: Notes that employees shall not tamper with, alter, or delete video</p> <p><b><i>CPAC recommends an increased zero-tolerance consequence for</i></b></p>	<p>Evidence tampering of any kind is a serious offense and a crime and will be dealt with as such by TPD. Suggest changing the language as reflected to delete the first clause and include the following language:</p> <p>Tampering with BWC video is evidence tampering and will be treated no differently for disciplinary purposes.</p>

<b><i>tampering with videos; considered tampering with evidence</i></b>	
<p>Draft: No language regarding CPAC being able to view footage</p> <p><b><i>CPAC requests that BWC video be made available to CPAC through the TPD liaison and will be considered a priority response</i></b></p>	<p>Due to public records laws, this request cannot be made. If CPAC were to be made an oversight committee, video would be available as an extension of TPD.</p>
<b>CPAC recommends being moved to an oversight committee</b>	<p>This would be a separate process that CPAC can pursue, but should not be linked to the BWC policy. To the extent that creation of a citizen oversight committee is pursued, that process would require Council approval and will impact mandatory subjects of bargaining that must be negotiated with our labor unions.</p>