

Police Camera Program

Policy
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701.1 PURPOSE

The Vancouver Police Department (VPD) Police Camera Program includes all forms of cameras either worn by its members or mounted in its vehicles for the purpose of contemporaneously and objectively document citizen contacts. Throughout this policy, the term "Body Worn Camera" (BWC or BWCs) is used to reference these cameras. For clarity, BWCs do not include covert or undercover camera systems used specifically for other investigative or undercover operation purposes. BWCs are a valuable tool for promoting transparency in law enforcement by recording community member contacts with police officers. Video/audio footage produced by BWCs may be used as evidence in civil or criminal investigations, reviewed administratively for employee compliance with Department policies (as set forth below), used as a tool in law enforcement training, and utilized as a reference in incident documentation.

701.2 POLICY INTENT

It is the VPD's intent to use BWCs to effectively document in-person (non-telephonic) law enforcement-related community contacts when incidents of use of force or negative interaction most frequently occur and, due to the nature of the work, is more likely to occur (e.g., patrol, traffic, SWAT and specialty team enforcement activity). Simultaneously, this policy takes legitimate individual privacy interests into account. Facial recognition software will not be utilized under this program or policy without legal authorization.

701.3 DEFINITIONS

Advisement: Statement made by a Department member that a communication, conversation, or interaction with a community member is being recorded.

Activation: The process that turns on the BWC and causes it to record or to store audio and video data.

Body Worn Camera (BWC): Camera system that captures audio and video signals, capable of being worn on an officer that includes, at minimum, a camera, microphone, and data storage ability. In this policy, BWC also refers to vehicle mounted camera/audio recording systems.

Employee: In this policy, employee refers to any VPD member, regardless of rank, or commissioned / non-commissioned status.

Involved Employee: Any officer who used or directed the use of force.

Surreptitious Recording: A surreptitious recording is a recording made without the knowledge of one or more of the parties to a conversation of communication and is a violation of the Washington Privacy Act, RCW Chapter 9.73.

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Witness Employee: A Vancouver Police Department member who observes or has firsthand knowledge of the events surrounding an in-custody death or the use of force by another Department member and did not use physical force. Additionally, this refers to an employee who observes or has firsthand knowledge of the events surrounding a Department member's direction to another to use force.

701.4 TRAINING

Prior to wearing and operating a BWC, employees are required to successfully complete Department authorized BWC training. The training, at a minimum, will include the following:

- VPD BWC policy
- System preparation and operation
- Placement of the BWC
- Procedure for downloading and tagging recorded data

701.5 EMPLOYEE RESPONSIBILITIES

- **Inspection** – Department members shall inspect their BWC at the start of every shift. If an employee discovers the BWC equipment is not functioning during this inspection or at any other time, they are responsible for notifying their supervisor and arranging for repair as soon as practical. Officers will obtain a spare BWC from their supervisor while their BWC is being repaired.
- **Requirement to wear the BWC:** The intent for this policy is to ensure BWCs are used by Department personnel who have the most frequent contact with the public. This includes all uniformed Department members working in a Patrol / Patrol support capacity while on-duty and serving in this capacity. This requirement includes Neighborhood Police Officers (NPOs), Neighborhood Response Team (NRT) Detectives, Homeless Assistance and Response Team (HART) Team members and Traffic Officers.
- Non-uniformed personnel, such as Detectives, shall activate their assigned BWC during pre-planned investigative events including but not limited to, residential search warrants, serving an arrest warrant, or those instances that may result in the arrest of a subject. The use of a BWC will be discretionary for interviews with witnesses and victims during ongoing/evolving investigations. It is permissible under this policy for Detectives to exercise reasonable discretion to record or not record events and circumstances in accordance with state law. Detectives may activate their BWC any time they determine it would be beneficial to capture an event or activity. If a Detective works in a patrol capacity, they will be governed by the policy referencing uniformed department members.
- Personnel performing tasks as part of a specialty team or unit will, activate their camera while performing enforcement activities (e.g., SWAT, CNT deployments and/or serving arrest/search warrants, etc.) It is permissible under this policy for SWAT/CNT or other specialty units to not record either pre and/or post operational briefings, tactical planning sessions or law enforcement intelligence/information gathering sessions in regards to tactical operations.

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- Employees assigned to duties involving explosives (e.g. MEDU) and/or personnel dispatched or otherwise present at the scene of a bomb threat are not required to wear or otherwise turn on their assigned BWC.
- Officers shall affix their camera on their person (e.g., the chest area of their uniform/external vest) where it is unobstructed by the uniform or other equipment. This requirement does not include circumstances in which the camera becomes unintentionally obstructed or dislodged during police activity.
- Exceptions to the requirement include uniformed Department members working in administrative assignments (e.g., modified duty, command personnel, etc.) where there is little to no risk of a negative encounter with the public or use of force.
- Privately owned BWCs or recording with privately owned equipment is not permitted.

701.6 WHEN TO RECORD

When equipped with a BWC system, members shall activate the BWC, when circumstances and officer safety permit, in any of the following situations:

- Prior to exiting their vehicle when arriving at a dispatched call. However, nothing in this policy prohibits the officer from activating the camera earlier.
- As soon as practical upon making the decision to engage in any self-initiated law enforcement activity
- Specific situations include, but are not limited to:
 - arrests
 - issuance of a restraining order or citation
 - vehicle pursuits
 - foot pursuits
 - victim, witness and suspect interviews
 - consent searches
 - search warrant service
 - staffing a containment position during a K9 search
 - all enforcement and investigative stops including voluntary contacts and investigatory detentions
 - vehicle stops including traffic violations when possible
 - stranded motorist assistance
 - contact with a person in mental health crisis
 - at the request of a citizen when doing so would not violate the prohibitive sections of this policy
 - any other encounter with the community that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- With the exception of prohibited recordings (Section 701.9), employees may, at their discretion, activate their BWC any time they determine it would be beneficial to capture an event or activity.

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- If circumstances prevent an employee from activating their BWC at the start of an event, the employee will activate the BWC as soon as practicable. Nothing in this policy should be interpreted as placing the BWC activation over the safety of a VPD member or community member.
- Remote BWC activation is not authorized for any purpose under this policy and will not be employed.
- Live Feed activation will not be employed except in the following limited circumstance: When previously identified employees, prior to deployment in the field and with knowledge they will be livestreaming are tasked with gathering intelligence during a civil unrest/riot/protest response, such information is solely used for the purpose of providing situational awareness information to Command Post personnel.

Activation Amnesty.

- No employee 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.
- The amnesty period will apply again anytime an employee is reassigned to a position without a BWC for a period of six months or more, and then returns to an assignment with a BWC.
- Employees assigned to positions 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.

701.7 ADVISEMENT - WHEN REQUIRED

Conversations between uniformed police employees and community members that occur during the performance of official duties are not recognized as private conversations under Washington State law and therefore generally do not require an advisement the interaction is being recorded. The exceptions to this are traffic stops and custodial interrogations.

- Employees conducting traffic stops while equipped with a BWC shall notify the occupants there is an audio and video recording occurring. This statement should be given at the beginning of the contact, absent an emergent situation, and captured on the recording.
- Prior to custodial interrogation, employees shall inform arrested people they are being audio and video recorded with a BWC. This statement, along with the Miranda advisement (if given), shall be included in the recording.

Nothing in this policy precludes an employee from advising a community member they are being recorded. If a community member asks if an employee is recording the event, employees must answer truthfully.

701.8 WHEN TO STOP RECORDING

Once activated, the employee shall not purposely turn off the BWC until the employee's involvement in the incident has concluded. The Department member should cease recording

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when their part of the active investigation is completed and there is little possibility the employee will have further contact with any person involved in the event. If a supervisor is required to obtain a Public Safety Statement, he/she will ensure their BWC as well as the BWC of the involved officer(s) is not recording to prevent compelled information from accidentally being provided to the IIT-OIS Policy 309. Exceptions may occur when recording has commenced and a prohibition (see below) situation follows.

701.9 RECORDING PROHIBITED

The BWC shall not be used to record:

- Anything not involved with official duties.
- Communications with other police personnel while not on a call.
- Communications with undercover officers or confidential informants.
- While on break or otherwise engaged in personal activities.
- While in the jail unless for an in-progress call for service. Transferring custody of a suspect to jail staff is not considered an in-progress call for service. For this section, the jail sallyport will not be considered part of the jail. Recording should end at the point of entering the secured booking area.
- While in the interior of a medical, mental health, domestic violence shelter, counseling or therapeutic facility unless investigating a call for service. For example, recording of an investigation of a crime committed at the facility, the drawing of blood at a facility following a DUI or taking a statement from a suspect, witness or victim while in the facility.
- While inside a police station, except for taking law enforcement actions such as: Conducting interviews, taking an in-person report, processing a DUI, or guarding an in-custody person. The employee should announce as they enter the station that they are recording.
- Any privileged conversations, such as attorney-client, peer support or labor privileged conversations.
- During community policing activities where no law enforcement action is anticipated, like Shop with a Cop, Police Activity League events or community meetings.
- VPD employees are prohibited from surreptitiously or overtly recording any employee of the Department or any other person in a manner inconsistent with this policy. It is understood that cameras will record the activity of other employees during calls for service.
- VPD employees may not use BWCs for non-work-related purposes or otherwise operate the BWC outside their legitimate law enforcement duties.

701.10 DISCRETIONARY RECORDING

It is permissible under this policy for employees to exercise reasonable discretion to not record events in only the following circumstances:

- When the employee is in a location where people have a reasonable expectation of privacy, such as a bathroom or locker room and the employee is not there to make an arrest or serve a warrant.
- When consideration and respect for a person's privacy or dignity outweighs the need

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to record an event. Examples may include death notifications, child or sexual assault victim interviews and a person's cultural or religious objections to being recorded.

- Sensitive communications that include law enforcement intelligence information or tactical planning. If these sensitive communications occur mid-call, the Department member shall turn the BWC back on when these conversations are over unless there is another approved exception to keep it off.
- If a community member objects to being recorded, the Department member may elect to record despite the objection. Since conversations with police officers are not considered private under Washington State law, there is no requirement that an employee turn off the camera for a community member who objects to having the interaction recorded.

Prior to deactivating a BWC during a call, and if the circumstances permit, the officer shall document the reason for stopping the recording on camera prior to deactivation.

701.11 END OF SHIFT RESPONSIBILITIES

Employees shall, prior to the end of their shift, or as soon as practical, follow the protocol to label, categorize and upload videos to the storage system. Additionally, Department members shall upload their BWC footage during their shift if the BWC storage capacity is reaching its limit.

- All BWC footage shall be uploaded prior to going home.
 - Department members unable to complete these end of shift responsibilities will notify a supervisor prior to leaving for the day and will complete the process at the beginning of their next regular or overtime shift, whichever occurs first.
- Employees with take-home vehicles will follow the same direction for uploading.

701.12 DOCUMENT USE OF THE BWC

Employees shall document in their police report they operated a BWC during the incident. In situations where no police report is needed, Department members shall indicate through Computer Assisted Dispatching (CAD) notes they operated a BWC during the call.

701.13 REPORT WRITING

An incident recorded on the BWC is not a substitute for a complete and thoroughly written police report. In situations that require an employee to write a police report, the employee may not use the BWC video as a substitute for, or basis to abbreviate, their documentation of the incident.

701.14 UNAUTHORIZED USE OF BODY WORN CAMERAS AND VIDEO

All employees of the Vancouver Police Department shall abide by the policies and procedures related to BWCs and BWC video as set forth in this policy.

- Employees may not use BWCs for non-work-related purposes or otherwise operate the BWC outside their legitimate law enforcement duties.
- All BWC videos are the property of the Vancouver Police Department. Dissemination outside of the agency is strictly prohibited except as required by law and pursuant to the provisions of Vancouver Police Department policy. Any dissemination outside this policy is prohibited without the consent of the Office of the Chief.

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- Employees are prohibited from accessing stored camera data, except for legitimate law enforcement purposes, including authorized review as described in this policy.

701.15 DOWNLOADING OF VIDEOS

The only personnel allowed to download BWC videos will be Records staff assigned to public disclosure assignments, Professional Standards Unit (PSU) staff for administrative investigation purposes, Investigations Units for investigative purposes, and the Training Unit Sergeant for training purposes. When a video is downloaded, the employee conducting the download will note in the system the purpose for the download and where the video will be maintained, if possible.

If any downloads are needed from an employee not listed above, a request will be sent to PSU.

701.16 REVIEW OF BWC VIDEO

1. Employees may view their own BWC video at any time in accordance with this policy.
2. Recordings may be reviewed by individuals other than the recording employee in any of the following situations:
 - (a) By employees prior to completing their police report or providing a statement pursuant to an internal affairs or criminal investigation, subject to the following:
 - i. All employees 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.
 - ii. Involved and witness employees in a use of force investigation will be provided with and allowed to review relevant BWC footage prior to any interview, answering questions or writing reports. The BWC footage viewed by the involved and witness employees should show actions, items or other relevant factors the employee could have seen or heard from their vantage point and could have been used in making a determination to use force against an individual(s) at the time of the incident.
 - iii. During an Officer Involved Shooting or Use of Force incident that results in significant bodily injury or death, the supervisor of the employee wearing a BWC or their designee will obtain and lock any relevant BWC footage of these incidents.
 - (b) By any supervisor/investigator conducting an internal affairs investigation. Review of the BWC 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 certain policy violations (e.g., those 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 in accordance with VPD Policy 1004. Inadvertent discovery of other policy violations (e.g., rudeness or procedural violations) should not be the basis of disciplinary action and may be addressed through appropriate corrective action. Any disagreements about the processing of these violations shall be handled between the Office of the Chief and the collective

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bargaining unit's president or representative.

- (c) By technical support staff for the purposes of assessing proper functioning of BWCs.
- (d) By the City and County Prosecutors.
- (e) 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.
- (f) By legal counsel and/or union representation representing an officer in a critical incident prior to providing a statement pursuant to an administrative investigation.
- (g) Training - Recordings may be reviewed for training purposes. Prior to any recordings being used for training purposes, the Training Unit will notify all involved employees. If an involved employee objects to showing a recording, they will submit a department memo to the Administrative Bureau Lieutenant documenting their objection. The Administrative Bureau Lieutenant will determine whether other training resources exist that serve the same purpose. Only in unique circumstances should the recording be used after approved through the employee's chain of command and the Office of the Chief. Inadvertent discovery of minor policy violations shall not be the basis of disciplinary action.
- (h) 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.
- (i) 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.
- (j) Pursuant to a subpoena or public records request.
- (k) Specific acts showcasing the Department that reflect positively on VPD, may be of interest to the public, and are to be made available to the media.

701.17 RETENTION OF BODY WORN CAMERA VIDEOS

1. In general, videos related to officer-involved shootings, critical incidents, homicides, sexual assaults, and cases in which VPD has received notice to preserve evidence shall be retained in the system until all trial and appellate litigation has been completed. The Investigations Bureau shall be responsible for Records notification under these circumstances. Videos related to unsolved homicides and sexual assaults shall be kept consistent with the State of Washington rules and VPD policy regarding records retention.
2. Videos related to PSU investigations shall be transferred to a format compatible with Blue Team and made part of the file. PSU will be responsible for downloading relevant BWC footage related to any administrative investigation.
3. All other BWC video shall be retained in the system for 12 months, and then deleted.
4. Accidental Activation - An employee may inadvertently/accidentally record

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themselves or others. These particular inadvertent/accidental recordings typically do not meet the statutory definition of a public recording (as defined 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 BWC, the employee may request the BWC 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 Commander or designee. The Commander or designee shall approve or deny the request and forward the decision to the VPD Records Unit.

5. Employees shall not intentionally tamper with, alter, or delete video. This does not apply to personnel tasked with system maintenance who purge videos under established guidelines or who redact videos as part of their duties.

701.18 RELEASE OF BWC VIDEOS

1. **For Criminal Justice Purposes:** BWC videos may be accessed for criminal discovery purposes directly by Prosecuting Attorneys / City of Vancouver (COV) Attorneys, who have an account in the video cache system. Prosecutors will be able to locate the existence of a BWC video by its reference in the police report and/or CAD notes and a search for videos related to pending cases by inputting the law enforcement incident report number into the system. Discovery of BWC videos to the defense bar shall be made through the prosecutor.
2. **To the Public:** BWC videos will be made available to the public through public records requests pursuant to RCW 42.56. Public records requests for BWC videos should be processed by VPD Records. The release of any public record involving BWC footage will include a notation to the requestor of such information that the frame rate/recording speed of any such video may not necessarily capture all segments of an event nor provide a sharp or clear image of the recorded event. Prior to release, videos from BWCs will be reviewed and redacted by Records and will be consistent with statutory exemptions under Washington State law, including the following:
 - (a) The images of any witness who expresses safety concerns or who requests that their identity not be disclosed.
 - (b) The image of domestic violence, sexual assault, trafficking, or stalking victims.
 - (c) People experiencing a medical emergency or receiving medical treatment.
 - (d) Child victims, child witnesses and juveniles in the court system.
 - (e) Images that are highly offensive to a reasonable person, such as images of deceased or seriously injured people.
 - (f) People with apparent mental illness in crisis or who are detained for a mental health evaluation.
 - (g) The image of anything which reveals personal identifying information.
3. The Records Division may provide third party notification to allow any person whose privacy may be impacted by the release of a BWC video time to file a petition for injunctive relief.
4. Community members shall not be allowed to view BWC camera recordings except in the instances listed above.

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5. Officer Involved Shooting / In-Custody Death cases.

701.19 CAMERA FUNCTION AND QUALITY CONTROL AUDIT

1. Each camera in this program will be audited on a rotating basis beginning with the lowest serial number and progressing to the highest.
2. The audit will consist of:
 - (a) Function test to determine that the camera powers on and off appropriately
 - (b) Activation test to determine that the camera begins recording when activated via the activation button
 - (c) Upload test which involves reviewing recently captured video uploaded to the cloud to determine that the data upload process is functioning properly
 - (d) Video/audio test which involves reviewing recently captured video to determine that there are no issues with the camera lens or microphone
3. Cameras failing the audit will be removed from service for repairs and immediately replaced with an available spare

701.20 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.

701.21 BWC Limitations. BWC recordings provide only a two-dimensional perspective with limited vantage points of an incident. Consequently, no employee will ever rely solely upon the review of video recordings as the basis for discipline against an employee. Instead, the department shall review and consider all available evidence (including witness statements, employee interviews, forensic analysis, documentary evidence, etc.), prior to imposing discipline against an officer.

701.22 Pre-event Recording. Pre-event recording is a feature that allows the Body Worn Camera to capture footage for a pre-determined amount of time prior to the activation of the camera (e.g., the time period the camera records to memory prior to the camera being turned on). The agreed upon pre-event recording time between the respective labor parties and the City of Vancouver for this policy will be fifteen (15) seconds.

701.23 The parties agree that the implementation and wearing of Body Worn Cameras is a mandatory subject of bargaining. Any changes to this Body Worn Camera policy shall be developed jointly between the affected labor organization and the Office of the Chief. However, nothing in this section should be construed

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as preventing the addition or removal of language regarding body worn cameras based upon a change in State or Federal law.