

Body Cameras

703.1 PURPOSE AND SCOPE

Body cameras are a valuable tool for promoting transparency in law enforcement by recording citizen contacts with police officers. The Spokane Police Department (SPD) uses body cameras to contemporaneously and objectively document citizen contacts. Video footage produced by body 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.

703.2 POLICY

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

703.3 DEFINITIONS

- A. **Advisement** – Statement made by an officer that a communication, conversation or interaction with a citizen is being recorded.
- B. **Activation** – The process that turns on the body camera and causes it to record or to store audio and video data.
- C. **Body 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.
- D. **Body Camera Videos** - Recorded media consisting of audio-video signals, recorded and digitally stored on a storage device or portable media.
- E. **Labeling of Video** – Marking a video with the incident (ID) number and category.
- F. **Evidence.com** – A cloud based data warehouse where body camera video footage is stored and retained.
- G. **Involved Officer** – Any officer who employed, or attempted to employ, force contemporaneous to the use of deadly force.
- H. **Retention of Video** – Retention of video refers to how long a video captured on body camera is kept or retained by the Spokane Police Department. A video is retained according to its category.
- I. **Surreptitious Recording** – A surreptitious recording is 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
- J. **TARU** – Technical Assistance Response Unit (TARU), a unit within the Spokane Police Department with commissioned officers trained in the operations, use and maintenance of body cameras. TARU personnel have a working knowledge of the methods and procedures related to the duplication, storage and retrieval of body camera videos as well as video forensics and evidentiary procedures.

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703.4 OFFICER RESPONSIBILITIES

- A. **Training** – Prior to wearing and operating a body camera, officers are required to successfully complete department authorized body camera training.
- B. **Requirement to Wear the Body Camera** – All officers assigned a body camera are required to wear the camera while on duty. Officers shall affix their cameras to the chest area of their uniforms. Privately owned body cameras are not permitted.
- C. **Requirement to Use the Body Camera** – Officers are required to use their body cameras to record their law enforcement activity, to do so consistently and in accordance with department policy.
- D. **Procedures on Use of Body Camera**

- 1. **ACTIVATION OF THE BODY CAMERA**

- (a) **Starting and Ending the Recording**

- 1. Officers shall activate the body camera prior to exiting the vehicle to any dispatched law enforcement activity. Nothing in this policy prohibits the officers from activating the camera earlier.
 - 2. Officers shall activate the body camera when involved in any manner in a police pursuit, vehicle follow, fail to yield and active police perimeter.
 - 3. Officers shall activate the camera as soon as practical upon making the decision to engage in any self-initiated law enforcement activity.
 - 4. Once the camera is activated, the officer shall leave it on until the incident has concluded. Officers who walk away from a citizen during the law enforcement activity shall leave the cameras on even while not actively engaged with the citizen.
 - 5. In an officer involved shooting, officers shall turn their cameras off prior to giving their public safety statements.
 - 6. Officers should record on the body camera reasons for turning off the body camera if the recording is stopped by the officer prior to the conclusion of the law enforcement activity.

- (b) **Decision to Not Record**

- 1. 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 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:
 - (a) **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

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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.

- (b) **Sensitive communications** – Law enforcement activity involving sensitive communications, matters of law enforcement intelligence or where recording the encounter could hinder a criminal investigation.
- (c) **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, there is no requirement that an officer turn off the camera for a citizen who objects to having the interaction recorded.

- 2. 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.

2. **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.
 - 1. Officers conducting traffic stops while equipped with a body 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.
 - 2. Prior to a custodial interrogation, officers shall inform arrested persons that they are being audio and video recorded with a body camera. This statement, along with the Miranda advisement, shall be included in the recording.

E. **End of Shift Responsibilities** - Prior to the end of their shifts or as soon as practical, officers will follow the protocol to label, categorize, and upload videos to Evidence.com.

- 1. 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 shift.
- 2. Officers with take home vehicles who have to transfer videos with a connection to their laptop computers: At the end of shift, Officers will ensure that the upload process has begun on Evidence.com. Due to the length of time that it takes for

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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 check the upload process to ensure that it was completed. If the process did not complete, they will restart the upload process immediately at the beginning of their shift.

- F. **Document Use of the Body Camera** - Officers shall document in their police reports that they operated a body camera. In instances where no police report is written, officers shall indicate through CAD that they operated a body camera.
- G. **Video Not a Substitute for Report** – An incident captured on the body 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 camera video as a substitute for, or basis to abbreviate, their documentation of the incident.
- H. **Report Problems** - Officers shall promptly report to TARU any problems they may encounter with the body camera or its operation.

703.5 UNAUTHORIZED USE OF BODY CAMERAS AND VIDEO

All employees of the Spokane Police Department, including commissioned officers and civilian personnel, shall abide by the policies and procedures related to body cameras and body 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.

- A. Employees may not use body cameras for non-work related purposes or otherwise operate the body camera outside their legitimate law enforcement duties.
- B. All body camera videos are the property of the Spokane Police Department. Dissemination outside of the agency is strictly prohibited, except as required by law and pursuant to the provisions of Spokane Police Department policy.
- C. Employees are prohibited from accessing the cloud storage site Evidence.com except for legitimate law enforcement purposes, including authorized review as described in subsection 703.9 of this policy, or otherwise for work related to their job assignment.

703.6 DOWNLOADING OF VIDEOS

The only personnel allowed to download videos will be the TARU Body Camera Administrators, Major Crimes Unit, Special Victims Unit, selected Academy Staff and Internal Affairs. Video downloads will be done for law enforcement purposes only.

If any downloads are needed from anyone not listed above, a request will be sent to TARU.

703.7 OPERATION AND OVERSIGHT OF THE BODY CAMERA PROGRAM

Operation and oversight of the body camera program is the responsibility of the Technical Assistance Response Unit (TARU).

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703.8 REVIEW OF THE BODY CAMERA PROGRAM

The body camera program shall be subject to ongoing review and evaluation by the Spokane Police Department. The Chief of Police shall designate a committee to serve on a Body Camera Review Board (BCRB), which shall convene annually, to review the body camera program and the body camera policy and to make recommendations for the Chief's consideration. The committee shall include representatives from TARU, Training, Investigations, Patrol, Professional Standards and the collective bargaining units.

703.9 REVIEW OF BODY CAMERA VIDEO

- A. Officers may view their own body camera video at any time in accordance with this policy.
- B. Recordings may be reviewed by individuals other than the recording officer in any of the following situations:
 - 1. 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 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.
 - (c) In the event there is a dispute over which body camera footage should be viewed by the involved officer(s), the legal representative of the officer, the lead SIRR team 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 SIRR Team will not be authorized to view any body camera footage unless and until authorized by the SIRR Team lead investigator. In addition, TARU will immediately lockdown any involved officer's ability to view body camera video of these incidents pending notification from an authorized investigative supervisor.
 - 2. 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 Guild president or representative.

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3. By an administrative review panel in the process of the review of any complaint assigned to their pod. 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 Guild president or representative.
4. By the Use of Force Review Board.
5. 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.
6. By technical support staff for purposes of assessing proper functioning of body cameras.
7. By the City and County Prosecutors.
8. 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.
9. By a department investigator who is participating in a criminal investigation.
10. By legal counsel and/or union representation representing an officer in a critical incident prior to providing a statement pursuant to an administrative inquiry.
11. 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.
12. 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.
13. 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.
14. By the Ombudsman investigating a specific complaint pursuant to the authority granted to the Ombudsman in the collective bargaining agreement. Review of video shall be related to the specific complaint and not used as the basis to randomly search for other possible violations.

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15. Pursuant to a subpoena or public records request.
16. Specific acts showcasing the Department that reflect positively on SPD, 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.

703.10 RETENTION OF BODY CAMERA VIDEOS

- A. **General** – Videos related to officer-involved shootings, critical incidents, homicides, serious sexual assaults, and cases in which SPD has received a notice to preserve evidence shall be retained in Evidence.com until all trial and appellate litigation has been completed. The SPD 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.
- B. Videos related to internal affairs investigations shall be transferred to a format compatible with Blue Team and made part of the file.
- C. All other body camera videos shall be retained in Evidence.com for 12 months, then deleted.
- D. Videos redacted for a public records request shall be retained for 24 months after the request and then deleted.
- E. **Accidental Activation** - In the event of an accidental activation of the body 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 to the Division Captain or designee. The Division Captain shall approve or deny the request and forward the decision to the TARU Administrator for action.
- F. Employees shall not tamper with, alter, or delete video.
 1. Exception: This does not apply to personnel tasked with system maintenance who purge videos under established guidelines.

703.11 RELEASE OF BODY CAMERA VIDEOS

- A. **For Criminal Justice Purposes** - Body 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 camera videos to the defense bar shall be made through the prosecutor.
- B. **To the Public** - Body camera videos will be made available to the public through public records requests pursuant to Chapter 42.56 RCW. Public records requests for body camera videos may be directed to the City Clerk's Office or to the Spokane Police Department and will be processed by the Police Records Unit. Prior to release, videos from body cameras will be reviewed and redacted. Redactions will be consistent with statutory exemptions under Washington law, including the following:

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1. The image of any witness who expresses safety concerns or who requests that their identity not be disclosed;
 2. The image of domestic violence, sexual assault, trafficking or stalking victims;
 3. Child victims, child witnesses and juveniles in the court system;
 4. Persons experiencing a medical emergency or receiving medical treatment;
 5. Images that are highly offensive to a reasonable person, such as images of deceased or seriously injured persons;
 6. Persons with apparent mental illness in crisis or who are detained for a mental health evaluation; or
 7. The image of anything which reveals personal identifying information.
- C. The Police Records Unit may provide third party notification to allow any person whose privacy may be impacted by the release of a body camera video time to file a petition for injunctive relief.