Body Worn Cameras

424.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of body-worn video cameras (BWC) by members of the Bellingham Police Department while in the performance of their duties. This policy does not apply to the interception of conversations for lawfully authorized investigative purposes under RCW 9.73.210,RCW 9.73.230, and (RCW 10.109.110) .

424.2 DEFINITIONS

Body-worn video cameras (BWC): System that captures audio and video signals that is capable of being worn on an officer's person, and that includes at minimum, a camera, microphone, recorder and monitor.

424.3 POLICY

The Bellingham Police Department provides officers with access to body-worn video cameras for use during the performance of their duties. All fully commissioned uniformed officers shall use and wear a body-worn video camera consistent with this policy. Officers are prohibited from using privately-owned body-worn video cameras while on duty. This policy is intended to more effectively fulfill the Department's mission and to ensure these systems are used properly, safely, securely and efficiently.

424.4 OFFICER RESPONSIBILITIES

1. Prior to going into the field, each officer who uses a BWC will be properly trained and equipped with a BWC to record audio and video in the field to include familiarization with this policy. At the end of each shift, each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment.
2. At the start of his or her shift and before going into the field, the officer should test the BWC in accordance with manufacturer specifications and Department operating procedures and training prior to going into the field with the BWC. If the BWC is malfunctioning or not working the officer shall notify his or her supervisor.
3. The officer shall orally inform any person being recorded that a recording is being made and shall ensure said advisement is recorded. The officer shall orally advise the subject they are being audio and video recorded. Officers shall make an attempt to ensure that non-English speaking persons, those with limited English proficiency, or persons hearing impaired understand that they are being recorded. An officer may encounter a situation in public that is rapidly evolving, dynamic, and involving a group of persons. In these situations it may not be feasible to advise all parties present that they are being audio and video recorded because of the dynamic environment. In a group, public setting, where the law recognizes minimal expectation of privacy, the officer should advise the primary contact and all other parties where feasible. The officer should document in their report reasons for not advising every person present.

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4. When interviewing crime victims and witnesses of domestic violence, sexual assault, or disclosure of intimate images, officers shall consider the circumstances involved with the case and the demeanor of the victim or witness. If the victim or witness meets the criteria, officers shall ask the individual: "Do you want your identity to remain confidential for public records purposes?" (RCW 42.56.240 (14)(vi))
    (a) Examples of cases where officers shall prompt a victim or witness with regards to their information being exempt from public disclosure would be:
        1. Cases where the suspect and victim are strangers and the victim believes retaliation could occur.
        2. Cases involving sexual assault.
        3. Cases involving hate crimes.
        4. Cases involving stalking or order violations.
        5. Domestic violence cases where one party does not want the other party to have their identifying information.
        6. Cases where witnesses or the reporting party believe retaliation could occur from their involvement.
    (b) The question and response shall be asked on BWC and documented at the top of the primary case report. The reporting officer shall also mark the "Requested Do Not Disclose" box when adding the person to the Longarm report.
5. Prior to the end of their shift, officers using BWC shall download the data at designated computers /docking stations as determined by the Department. After download, the officer should ensure the BWC system is available to be recharged.
6. Officers shall label their BWC videos with the proper case number ID, retention category, and incident title for all critical incidents including all arrests, uses of force, pursuits, and incidents where a citizen has expressed a desire to seek legal action against the Department. All other routine BWC videos can be left unlabeled for the auto-tagging function in Evidence.com. Officers will have the ability to label their own BWC videos on any incident prior to docking their camera, which will override the auto-tagging function.
7. Officers shall document the use of BWC during an incident in their police report. If a citation was issued, a notation shall be placed on the back of the records copy of the citation that the incident was recorded.
8. If the BWC was not activated in a situation where policy mandates its usage, the officer shall articulate reasons why it was not used in his or her incident report.
9. Officers should review the labeling data for their BWC videos in Evidence.com on a weekly basis. Making sure the BWC videos are labeled with the correct ID, retention categories and title.

424.5 ACTIVATION OF THE BWC

This policy is not intended to describe every possible situation in which the BWC may be used, although there are many situations where its use is appropriate.

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If adequate time is available, the officer **shall** activate the BWC in any of the following situations:

(a) Traffic stops

(b) Vehicle pursuits

(c) Custodial arrests

(d) Vehicle searches that are consent or exigent

(e) Physical or verbal confrontations or use of force

(f) DUI investigations including field sobriety tests and processing

(g) Domestic violence calls involving physical violence

(h) Dispatched calls involving weapons

(i) Custodial interrogation of a juvenile

(j) Custodial interrogation if related to a felony crime

(k) Involuntary detentions of individuals for protective custody.

(l) Officers involved in vehicle collision while using their department assigned vehicle.

The officer **should** activate the BWC in any of the following situations:

(a) Self-initiated activity in which the officer believes there may be evidentiary value in activating the BWC

(b) Any other circumstance that the officer reasonably believes that a recording of a contact or event would be appropriate

(c) Self-initiated field contacts.

Once started, recordings should continue without interruption until the contact ends.

At no time is an officer expected to jeopardize his or her safety or that of the public in order to activate a BWC.Officers suddenly confronted with an unexpected event should react to any potential threats and protect themselves and others first before they attempt to activate their BWCs.

The BWC should be activated in required situations as soon as practicable.

424.6 RECORDING SUSPECT AFTER ARREST

Consistent with RCW 9.73.090, before an officer records an arrested suspect with a BWC, the officer shall:

(a) Inform the suspect that they are being recorded.

(b) State the time the recording begins and ends.

(c) Record the reading of the Miranda warnings.

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424.7 SURREPTITIOUS RECORDING

Washington law prohibits any individual from surreptitiously recording any conversation, except as provided in RCW 9.73.040, RCW 9.73.090, RCW 9.73.210, and RCW 9.73.230.

424.8 PROHIBITED USE

BWC's shall not be used to record:

1. Routine administrative activities of the Bellingham Police Department that do not involve interactions with the public. Care should be taken to avoid incidentally recording confidential documents that the Bellingham Police Department has a duty to keep secure (i.e., criminal justice information)
2. Areas within the Bellingham Police Department facilities where members have a reasonable expectation of privacy (ex. locker rooms, dressing areas, break rooms) unless responding to a call for service or conducting an investigation.
3. Conversations of other employees without their knowledge.
4. When a member is taking an authorized break or otherwise engaged in personal activities.
5. In a courtroom unless responding to a call for service or emergency situation.
6. Interactions with undercover officers or confidential informants.
7. Strip searches
8. BWC's shall not be used for the purposes of embarrassment, harassment, or ridicule of any individual or group.

424.9 RECORDING IN A PRIVATE RESIDENCE AND RESPONDING TO CIRCUMSTANCES WHERE A PERSON IS OR MAY BE UNWILLING TO COMMUNICATE WHILE BEING RECORDED

It is the opinion of the Washington State Attorney General that recording by police in a private residence is permissible. Absent exigent circumstances or when a contact becomes adversarial, officers shall orally inform any person being recorded that a recording is being made and shall ensure said advisement is recorded.

When recording victim or witness interviews, the officers shall ask the individual: "Do you want your identify, and/or communications, to remain confidential for public records purposes?" This question should be recorded.

If a citizen objects to being recorded, the officer may elect to record the encounter 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.

424.10 RECORDING IN A MEDICAL FACILITY

Any recording in a medical facility shall consist only of those persons pertinent to the investigation.

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It is highly recommended that victim interviews be conducted in an area where personal privacy can be protected and, if appropriate, should have a victim advocate present.

424.11 RETENTION OF RECORDINGS

All recorded imagery will be stored and retained by the Department in accordance with the law and destroyed at the conclusion of any retention period required by law. The retention may be extended at the request of an officer or supervisor and should be extended if the recorded contact constitutes evidence in a criminal case or that the recorded contact may be beneficial in a non-criminal matter.

Any time an officer records a contact that constitutes evidence in a criminal case, the officer shall record the related case number, download the file in accordance with Department procedures to ensure the recording is retained for evidentiary purposes, and document the existence in their Longarm case report.

Any time an officer reasonably believes a recorded contact may be beneficial in a non-criminal matter the member should promptly notify a supervisor of the recording's existence, download the file in accordance with Department procedures ensure the recording is retained, and document the existence in their Longarm case report.

Members should upload the files at the end of their shift and any time the storage capacity is nearing its limit.

424.11.1 INADVERTENT RECORDINGS

An officer may inadvertently/accidently record themselves, or others, while the BWC is activated.These particular inadvertent/accidental recordings do not meet the statutory definition of a public record (as described in RCW 40.14.100) because they are not made "in connection with the transaction of public business"and as such may be deleted.

The following procedure has been established for videos that should be deleted because they are inadvertent or accidental:

1. If an accidental recording occurs inside the BPD facility, while loading a vehicle, or during training, the recording officer should label the video ID as "Accidental." The BWC Program Administrator or the Evidence and ID Supervisor will review and delete the BWC video if the deletion is lawfully allowed.
2. If the officer's accidental recording is of a sensitive nature, such as recording in a bathroom, locker room, or other place of expected privacy, the following procedure is established:
    (a) If the BWC video is not "in connection with the transaction of public business," the officer will label the video ID as "accidental sensitive" and email the BWC Program Administrator and the Evidence and ID Supervisor about the accidental recording to have it deleted. The BWC video will be reviewed by the proper gendered person for deletion.

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(b) If the BWC video is attached to a video that would be considered a public record, the officer will label the video with the proper case ID, title, and category for the incident. The officer will email the BWC Program Administrator and the Evidence and ID Supervisor about the accidental recording in the BWC video. The video will be reviewed by the proper gendered person and the sensitive portion of the video will either be redacted or deleted from the original video.

424.12 REVIEW OF BWC RECORDINGS

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside the agency is strictly prohibited, except to the extent permitted by or required by law.

Agency personnel shall not access recorded data for personal use. Agency personnel shall not upload recorded data onto public and social media websites without express permission from the Chief of Police.

BWC recordings will not be routinely or randomly reviewed to monitor officer performance. A supervisor may conduct a review of a specific incident. Reasons for reviewing a specific incident include: (1) capturing specific evidence for use in a criminal prosecution, (2) a civil claim has been filed or for a potential civil claim that could be filed against the City involving the incident, (3) a citizen complaint has made against an officer regarding the incident, (4) the incident included use of force, (5) the included a vehicle pursuit, (6) the incident included a vehicle collision, or (7) the incident involved serious injury or death.It shall be deemed a violation of this policy for a supervisor to review recordings for the sole purpose of searching for violations of department policy or law not related to a specific complaint or incident.

Recordings may also be viewed in any of the following situations:

a. By a recording officer for use when preparing reports and statements;

b. To assess properly functioning BWC systems;

c. By a department member who is participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation;

d. By an officer who is captured on or referenced in the video or audio data and reviews and uses such data for any purposes relating to his or her employment;

e. Recordings may be shown for training purposes. Involved officer(s) shall be notified and If an involved officer objects to showing a recording, his or her objection shall be submitted to the staff to determine if the training value outweighs the officer's objection;

g. By an employee's legal representative and/ or bargaining unit representative who is involved in representing the employee in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation;

h. By the City Attorney's Office or other legal representative of the City.

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i. Files will be securely stored in accordance with state records retention laws and for the purposes of training or for use in an investigation or prosecution. In response to public records, discovery, or law enforcement requests, records or evidence staff will review, download, and redact if required, applicable body worn video files. Evidence and records staff will routinely monitor retention. All access is to be audited to ensure only authorized users are interacting with the data for legitimate and authorized purposes.

When preparing written reports, officers should only review their recordings as a resource. Members should not use the fact that a recording was made as a reason to write a less detailed report.

In no event shall a recording be used or shown for the purpose of ridiculing or embarrassing an officer or Department employee.

Recordings will be provided to the City and County prosecutor's office when required as part of discovery for a criminal case.

424.13 PUBLIC DISCLOSURE OF BWC RECORDINGS

Public disclosure of BWC recordings is governed by the Public Records Act, Chapter 42.56 RCW.

Upon receipt of a PRA request for a BWC recording, the staff member will immediately email the request to the Public Records Officer. The designated staff will take immediate steps to flag the requested recording(s) in evidence.com as a "Public Record" in order to preserve the recording(s).

The Public Records Officer, or designee, will send the requestor a five day acknowledgment notice with an estimated time for completion of the request. The Public Records Officer will coordinate the City's response to the request.

424.14 BODY WORN CAMERA COORDINATOR

The Chief of Police or their designee should delegate certain responsibilities to a BWC coordinator. The responsibilities of the coordinator include:

1. Serving as a liaison between the Bellingham Police Department and the BWC manufacturer/distributor and any third-party media storage vendor.
2. Developing inventory procedures for issuing and tracking BWC equipment, including properly marking BWC's as property of the BPD and recording the date each BWC is placed into or taken out of service.
3. Assisting with troubleshooting and maintenance of BWC equipment and media systems and, when necessary, coordinating the repair or replacement of BWC's.
4. Managing BWC media systems so that:
    (a) Access is limited to the minimum necessary authorized users and user privileges are restricted to those necessary for the member to conduct assigned department duties.
    (b) Security requirements, such as two-factor authentication and appropriate password parameters, are in place for user credentials.

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(c) Configuring BWC media systems, or developing manual procedures, so that media is appropriately categorized and retained according to the event type tagged by BPD members.

(d) Retaining audit logs or records of all access, alteration, and deletion of BWC media and media systems, and conducting periodic audits to ensure compliance with applicable laws, regulations, and department policy.

(e) Developing and updating BWC training for BPD members who are assigned a BWC or for members given access to BWC media systems.

424.15 TRAINING

The Police Chief or designee shall appoint a Systems Administrator to oversee the BWC system and training personnel.

Officers shall not use BWC systems unless they have successfully completed training in the proper use of such equipment. Training provisions will include classroom discussion and appropriate field application. The training will consist of a review of the proper function and use of the BWC devices, recommended times to employ the system, and departmental policy and procedures as they pertain to the system. A written record of the training provided will be completed by the trainer and maintained in the officer's training file.

Additional training will be required at periodic intervals to ensure the continued effective use and operations and performance, and to incorporate changes, updates, or other revisions in policy and equipment.

424.16 USE OF BWC RECORDING IN DISCIPLINE

The existence of a BWC recording that captures an officer making a mistake or not in compliance with a policy or rule shall not be the basis for enhanced discipline. The existence of the recording does not exacerbate or aggravate the conduct.

It is directly acknowledged as we deploy BWCs, officers encounter stressful situations in a fast paced and often unpredictable environment. In this environment, officers will sometimes misspeak, make mistakes, or use foul language. While we make every effort to avoid these errors, the BWC recordings should assist in coaching for improved performance, not to levy more substantial discipline to employees than the same unrecorded conduct would subject them to.

BWC recordings will not be reviewed by the Department solely for the purpose of initiating internal investigations against members of the Department. If a BWC recording is reviewed by the Department as part of an official IA investigation, the Department shall provide the involved-employee(s) a copy of the complaint and/or allegations. At least seventy-two (72) hours prior to interviewing any involved employee(s) about their conduct, which is part of a BWC recording, the applicable BWC recording will be provided to the involved-employee(s) and their legal and/or collective bargaining representative.

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In the event that a recording is reviewed in error, for instance; if while searching for a recording of a specific date and time, an unrelated recording of a similar date and time is reviewed, the Department shall not initiate a new personnel complaint based on mere violations of Department Policy, however if there are Violations of Law, the Department may initiate an investigation and open a complaint if necessary.

Recordings shall not be used for the auditing of routine activity not related to criminal investigations or allegations of misconduct. Recordings shall not be reviewed for employee evaluation purposes.

A supervisor may conduct a review of a specific incident on an officer's recorded imagery only when there is an articulable reason justifying such review. Articulable reasons for reviewing an officer's BWC footage include, but are not limited to: (1) capturing specific evidence for use in a criminal prosecution, (2) a civil claim has been filed against the City involving the incident, (3) a citizen complaint has been made against an officer regarding the incident, (4) the incident included a use of force, (5) the incident included a vehicle pursuit, (6) the incident included a vehicular collision, or (7) the incident involved a serious injury or death. Notwithstanding the other provisions of this section, Field Training Officers (FTO) may review the BWC footage of probationary trainees in the Field Training Program.

424.17 OFFICER AND GUILD ACCESS TO VIDEO

An employee's legal representative and/or bargaining unit representative will be provided copies of all recordings relevant to any official investigation, such as a lethal force report, personnel complaint, administrative inquiry or a criminal investigation, relevant to or associated with a Department employee.

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