

Body-Worn Cameras

539.1 PURPOSE AND SCOPE

The Tumwater Police Department has adopted the use of Body Worn Cameras (BWC) to provide transparency and to document interactions between police officers and members of the public. This policy provides guidelines for the use of BWC's by officers of this department while in the performance of their duties.

The Department acknowledges that video recordings provide only a two-dimensional perspective (with limited vantage points) of an incident. Lighting, weather, ambient noise and other factors may impact the quality of the video and audio recording.

This policy only applies to BWC video and audio recordings.

539.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - Any process that causes the BWC system to record, transmit, or store video or audio data.

Body Worn Camera (BWC) - Portable audio and video recording system worn by uniformed officers and other Department members engaged in law enforcement contacts with members of the public or code enforcement interactions with the public.

Recorded Media – The audio and video data captured by BWC.

539.2 POLICY

The Tumwater Police Department provides members with access to body-worn video cameras for use during the performance of their duties. All members who are provided with a BWC by the department shall use and wear it consistent with this policy. Members are prohibited from using privately-owned BWCs 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.

539.3 RESPONSIBILITIES

538.3.1 BWC COORDINATOR RESPONSIBILITIES

The Chief of police or their authorized designee should delegate certain responsibilities to a BWC coordinator.

The responsibilities of the coordinator include:

- (a) Serving as a liaison between the Department and the BWC manufacturer/distributor and any third-party media storage vendor.

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- (b) Developing inventory procedures for issuing and tracking BWC equipment.
- (c) Assisting with troubleshooting and maintenance of BWC equipment and media systems and, when necessary, coordinating the repair or replacement of BWC's.
- (d) Managing BWC media systems so that 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.
- (e) Developing and updating BWC training for officers who are assigned a BWC or for members given access to BWC media systems.
- (f) Once per month, conduct a randomized video selection review to ensure BWCs are functioning correctly.
 - a. The randomized video selection will be conducted using Axon's performance product, which will select random videos without input from the BWC Coordinator.
 - b. The reviewing of these random videos is only to verify the BWC is functioning correctly and review of the video should cease as soon as this is established.

539.3.2 OFFICER RESPONSIBILITIES

Prior to going into service, 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 uploading BWC media. At the start of their shift and before going into the field, the officer shall test the BWC in accordance with the manufacturer's specifications and department operating procedures and training. If the BWC is malfunctioning or not working, the officer shall notify their supervisor and obtain a spare BWC. Officers are responsible for ensuring that the BWC remains charged and operational during their entire shift. Officers will wear the BWC in a manner which reasonably promotes an accurate recording of the situation, generally this will be on the front torso in a fixed position. Officers are responsible for ensuring there are no obstructions and that the BWC remains in a position suitable for recording.

Officers shall report any malfunction or damage to the BWC to the on-duty supervisor as soon as practicable and, if possible, obtain a functioning BWC to use either temporarily while repairs are being made to the officer's BWC or as a permanent replacement.

539.4 BODY-WORN CAMERA USE

The following guidelines apply to the use of BWCs:

- (a) Only department-issued BWCs shall be used without the express consent of the Chief of Police or their designee.
- (b) The use of department-issued BWCs shall be strictly limited to officers for department related activities (RCW 10.109.30).
- (c) Department members shall not use BWCs or BWC systems for which they have not received prior authorization and appropriate training.
- (d) Department members shall immediately report unauthorized access or use of BWCs or BWC media systems by another member of this department to their supervisor or the Chief of Police.

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- (e) No Department member will be subject to discipline for failing to activate a BWC for any reason for the first month or 16 shifts, whichever occurs later, after the Department member 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 discipline. This amnesty period will apply again in the event a member who previously was assigned a BWC is off duty for an extended period of four months or more.

539.4.1 PROHIBITIONS

BWCs should not be used to record:

- (a) Routine administrative activities of the Department that do not involve interactions with the public. Care should be taken to avoid accidentally recording confidential documents that the Department has a duty to keep secure (i.e. criminal justice information).
- (b) Areas within the department facilities where members have a reasonable expectation of privacy (e.g., locker rooms or dressing areas, breakrooms) unless in the performance of official duties.
- (c) No member of the Department may surreptitiously record any conversation of any other member of this department except with a court order and authorization by the Chief of Police for the purpose of conducting a criminal investigation.
- (d) When a department member is taking an authorized break or otherwise engaged in personal activities.
- (e) In a courtroom unless responding to a call for service or emergency situation.
- (f) Interactions with undercover officers or confidential informants.
- (g) Officers should not activate or use the BWC during training, excluding patrol field officer training (FTO), without the approval of the Training Lieutenant and/or Deputy Chief.

BWC recorded media should not be used or accessed:

- (h) Members of the Department are prohibited from using a Department BWC and BWC recorded media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.
- (i) BWC recorded media shall not be used for the purpose of embarrassment, harassment, or ridicule of any individual or group.

539.5 ACTIVATION / DEACTIVATION OF 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 and expected.

Subject to exceptions contained in this policy, BWC devices will be powered on and in ready mode status at all times while officers are on duty. Cameras may be powered off while members are off duty.

The member shall make every reasonable effort to activate the BWC in any contact where a member is involved in a law enforcement function. These contacts include, but are not limited to:

- (a) Self-initiated law enforcement activity (e.g. traffic stops, field interviews, citizen contacts).
- (b) Any contact that becomes adversarial after the initial contact in a situation that would otherwise not be recorded.
- (c) Any dispatched call for service resulting in in-person contact that does not meet an exception as described in this policy.
- (d) Attempting to detain or arrest an individual
- (e) Any other circumstances that the member reasonably believes that a recording of a contact or event would be appropriate.
- (f) Custodial interview of an adult for a felony offense.
- (g) Custodial interview of a juvenile for any offense
- (h) When directed by a supervisor

When speaking to an individual via telephone, if the call is on speakerphone, or it is reasonable to assume the person on the other end of the call will be recorded, Officers shall inform the person they are speaking with that an audio recording is being made via BWC.

At no time is a member expected to jeopardize their safety in order to activate a BWC. The BWC should be activated in required situations prior to exiting the patrol car or as soon as practicable

539.5.1 NOTICE OF RECORDING

Officers shall inform any person, when reasonably safe and feasible, that an audio and video recording is being made and shall make the attempt to ensure said advisement is recorded. Members shall make a reasonable effort to ensure that non-English speaking persons, those with limited English proficiency, or hearing-impaired persons understand that they are being recorded.

A member 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 member should advise the primary contact and all other parties as time and circumstances allow.

539.5.2 PRIVACY CONSIDERATIONS

Officers should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer an issue unless the circumstances no longer fit the criteria for recording.

Officers may also mute or deactivate their BWC:

- (a) To protect the privacy of a victim or witness.
- (b) When an individual wishes to provide information anonymously.

- (c) To avoid recording a confidential informant or undercover officer.
- (d) When discussing case tactics or strategy
- (e) During private conversations with other members or emergency responders.

Officers should choose to mute rather than deactivate BWCs when practicable. Deactivation should only be used when muting the BWC will not accomplish the level of privacy necessary for the situation.

Since conversations with police officers are not considered private under Washington state law, there is no requirement that an officer turn off the camera for an individual who objects to having the interaction recorded.

539.5.3 RECORDING IN A MEDICAL FACILITY

Whenever practical, recording in a medical facility should consist only of those persons pertinent to the investigation. It is highly recommended that victim interviews be conducted in an area where personal privacy can be protected.

539.5.4 JAILS / CORRECTIONAL FACILITIES

BWC recording will generally not be conducted inside jails or correctional facilities for security reasons.

539.5.5 DEACTIVATING BWC / CESSATION OF RECORDING

Consistent with this policy, once started, BWC recordings should continue without interruption until contact with any involved member of the public ends. However, members may deactivate or turn off the BWC during an incident in the following circumstances:

- (a) Members have the discretion to keep their cameras turned off during conversations with crime witnesses and members of the community who wish to report or discuss criminal activity.
- (b) Consistent with this policy, members may deactivate the BWC during an incident when exchanging information with other members or when engaged in an operational or tactical discussion with other members.
- (c) Consistent with the Response to Bomb Calls policy, members may deactivate their BWC or leave their BWC outside of the perimeter when investigating bomb threats or suspicious packages under the same circumstances where utilization of electronic devices capable of transmitting and receiving radio frequency energy could potentially cause a detonation. Members must immediately activate their BWC when safe to do so.
- (d) Consistent with this policy, Department members should not knowingly record sexually explicit material, specifically depictions of minors engaged in sexually explicit conduct.

If the BWC is deactivated during a contact, the Department member should state the reason the BWC is being turned off on camera.

539.5.6 LIVE VIEW

The use of the “live view” shall not be used and is not authorized.

539.5.7 DOCUMENTATION

Every report prepared by an officer who is issued a BWC should state “BWC available” or “BWC unavailable”, as applicable, and should document:

- (a) An explanation of why BWC media is unavailable including any malfunction, damage, or battery issue that resulted in the failure of the BWC to capture all or part of the event.
- (b) Any exigency or other circumstances that prevented the officer from immediately activating the recording at the beginning of the event.

539.5.8 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.

539.6 UPLOADING BWC MEDIA

Unless otherwise authorized by a supervisor, all media from an officer’s BWC should be properly uploaded and tagged before the end of their shift. BWC media related to a serious high-profile event should be uploaded and tagged as soon as practicable upon returning to the Department.

539.7 BWC MEDIA

All BWC media is the sole property of the Department. Department members shall have no expectation of privacy or ownership interest in the content of BWC media.

Department members shall not alter, copy, delete, release, or permit access to BWC media other than as permitted by this policy without the express consent of the Chief of Police or their designee.

BWC media should not be accessed using personal devices unless authorized by the Chief of Police or their designee.

539.7.1 ACCESS AND USE OF BWC MEDIA

BWC media systems shall only be accessed by authorized Department members using the member’s own login credentials and in accordance with the City of Tumwater, Information Technology Use Policy.

BWC media shall only be accessed and viewed for legitimate department-related purposes in accordance with the following guidelines:

- (a) BWC recorded media tagged as restricted should only be accessible by those designated by the Chief of Police or their designee.
- (b) Officers may review their own BWC recorded media for department related purposes.
- (c) Investigators may review BWC recorded media pertaining to their assigned cases.
- (d) An officer testifying regarding a department related event may review the pertinent BWC recorded media before testifying.

- (e) Department members shall not upload BWC recorded media onto public and social media websites without the expressed permission of the Chief of Police or their designee.
- (f) Review by records or other staff members may be conducted for the following reasons:
 - a. To prepare relevant media recordings for delivery to the Prosecuting Attorneys.
 - b. To fulfill requests for records under the Public Records Act, Chapter 42.56 RCW.
 - c. For delivery to other law enforcement entities with the consent of the Chief of Police or their designee.
 - d. As otherwise required by law

539.7.2 REVIEW OF BWC RECORDINGS

Command staff or their designees are authorized to conduct a narrowly tailored review of relevant recordings in accordance with the following guidelines.

A supervisor may conduct a review of a specific incident when there is an articulable reason justifying such review. Articulable reasons for reviewing a specific incident include but are not limited to:

- (a) Capturing specific evidence for use in a criminal prosecution.
- (b) A civil claim has been filed or threatened against the City involving the incident.
- (c) A community member or supervisor complaint has been made against a Department Member regarding the incident.
- (d) The incident included a reportable use of force as specified in RCW 10.118, a level one control tactic, or the use of the WRAP restraint system.
- (e) The incident included a vehicle pursuit.
- (f) The incident included a City owned vehicle collision.
- (g) 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 as listed above.

Recordings may also be viewed to assess if a BWC is functioning properly when there is reason to believe the BWC is not functioning properly.

539.8 PUBLIC DISCLOSURE

Public disclosure of BWC recordings is governed by the Public Records Act, Chapter 42.56 RCW. The Records Manager or their designee will ensure that a copy of the recording is made and delivered in accordance with a lawful request.

539.9 RETENTION OF BWC MEDIA

All BWC recordings shall be retained in accordance with the Washington State records retention schedule. Inadvertent recordings may be retained for 60 days and then deleted.

539.10 TRAINING

The Department shall ensure that each member is trained in the use of the BWC prior to issuance and deployment. The training shall include:

- (a) Training on operation (to include policy review), maintenance and care.
- (b) Periodic training on significant changes in the law pertaining to BWC.

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