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# Body-Worn Camera/In-Car Video (BWC/ICV) Program

## 422.1 PURPOSE AND SCOPE

Establishes policies, procedures, and guidelines for the Body-Worn Camera/In-Car Video (BWC/ICV) program. This applies to all employees who use a body-worn camera and/or an in-car video system and every employee who has access to or handles records generated by the BWC/ICV program.

## 422.2 POLICY

Body-worn cameras and in-car video systems are valuable tools that promote transparency in law enforcement by recording contacts between members of the community and police officers. The Richland Police Department (RPD) is employing body-worn cameras and in-car video systems to objectively document the detail of such contacts as they occur. Capturing information in this manner is beneficial to all involved parties.

The Department acknowledges that video recordings provide only a two-dimensional perspective (with limited vantage points) of an incident. A camera likely will not capture everything that an officer sees and may capture something that the officer may not have seen. Consequently, RPD will consider all available evidence when reviewing an event, as opposed to relying solely upon video recordings to reach a final conclusion as to what occurred. Additional available evidence includes but is not limited to witness statements, officer interviews, forensic analysis, and documentary evidence.

## 422.3 DEFINITIONS

**Body-Worn Camera (BWC)** means a video and audio recording system designed to be worn on the exterior of uniforms and/or equipment.

**In-Car Video (ICV)** means a video and audio recording system that is mounted in, and draws power from, a vehicle.

**Camera System** means an audio-visual system that is capable of audio and video recordings.

**Advisement** means a statement made by an officer at the outset of using a BWC/ICV to record a communication, conversation or interaction with a community member. This statement is made for the specific purpose of informing the community member that the communication or conversation is being recorded.

**Consent** means permission. Consent to record shall be considered obtained when the recording party has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that such communication or conversation is being recorded.

**Activation** means any process that causes the BWC/ICV to store video and/or audio data in an active mode.

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**Body Camera Technicians** means personnel certified or trained in the operational use and repair of body-worn cameras, duplicating methods, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures.

#### **422.4 CITY PROPERTY**

The BWC/ICV equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment are the sole property of the City of Richland. All disclosures and dissemination are only permitted for official department business. All other uses are prohibited. Only RPD approved BWC/ICV equipment may be used. The use of unauthorized camera systems is prohibited.

#### **422.5 MAINTENANCE**

The BWC/ICV equipment vendors shall be responsible for BWC/ICV system maintenance, upgrades, updates, and repairs.

#### **422.6 TRAINING**

- (a) Initial Training: Prior to wearing and operating a BWC or operating a vehicle with an ICV, officers are required to successfully complete Department training on the proper use of the equipment and procedures for uploading recorded video. This training will include:
1. Department policy on BWCs and ICVs;
  2. System preparation, function testing, and operation;
  3. Procedures for operating equipment;
  4. Placement of the BWC;
  5. Procedures for downloading and tagging recorded data;
  6. Procedures for preparing and presenting digital evidence for court;
  7. Scenario-based exercises that replicate situations officers may encounter.
- (b) Refresher Training: Officers shall attend refresher training on the BWC and ICV as directed by the Department.

#### **422.7 INSPECTION**

Officers shall inspect their BWC/ICV equipment at the start of every shift. If an officer discovers that the BWC/ICV equipment is not functioning, the officer is responsible for documenting the malfunction in an email to the officer's direct supervisor. The supervisor will coordinate with the Department's Quartermaster for replacement or repair of the equipment.

#### **422.8 PLACEMENT OF BWC ON UNIFORM**

Generally, the BWC is to be worn on the officer's front torso area in a fixed position. The position may be adjusted for the best view possible as determined by experience. BWCs must

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not intentionally be worn in a location that diminishes their effectiveness. Officers will be notified in writing of any change regarding placement of the BWC.

#### **422.9 ACTIVATION OF BWC/ICV**

- (a) Activation and Officer Safety: At no time is an officer expected to jeopardize their own safety or that of the public in order to activate a BWC/ICV system. Officers suddenly confronted with an unexpected event should react to any potential threats and protect themselves and others before attempting to activate their BWC/ICV systems.
- (b) BWC Activation : Subject to the exceptions contained in this policy (and as public and officer safety considerations permit), officers are to make their best effort to activate their BWC before civilian contact occurs for all calls for service, as well as for all enforcement and investigative contacts with civilians. If circumstances prevent activation at the start of an event, the officer will activate the BWC as soon as practicable. In addition, and unless otherwise prohibited by this policy, officers may, at their discretion, activate the BWC any time they determine it would be beneficial to capture a contact, an event, or an activity.
- (c) The general statement above notwithstanding, officers who have been issued a BWC shall use the device to record the following:
- (d) Investigations and Investigative contacts, including:
  - 1. Traffic stops
  - 2. stops
  - 3. Investigative social contacts that may turn into a Terry stop
  - 4. Arrest and detention
  - 5. Reading of rights
  - 6. Taking victim, witness, or suspect statements
  - 7. Vehicle pursuits
  - 8. Searches
  - 9. Handcuffing
  - 10. Interaction with detainees in a holding cell or detention facility
  - 11. Any other contact, event, or activity where the member believes recording has value.
- (e) ICV Activation: As public and officer safety considerations permit, officers are to ensure that the ICV is activated when:
  - 1. Driving to an incident and for the duration of the officer's involvement in the incident if in proximity to the vehicle
  - 2. Civilians enter/exit the rear seat of the vehicle
  - 3. The patrol vehicle's emergency lights are activated.

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4. In patrol vehicles, the ICV will automatically activate when vehicle emergency lights are activated or the rifle rack is opened. For the purposes of this section, the term “civilians” does not include individuals on ride-a-longs or personnel working on vehicles.
  5. If circumstances prevent activation at the start of an event, the officer will activate the ICV as soon as practicable. In addition, and unless otherwise prohibited by this policy, officers may, at their discretion, activate the ICV any time they determine it would be beneficial to capture a contact, an event, or an activity.
  6. When stopping a vehicle or making contact at an incident, and as public and officer safety considerations permit, officers will make reasonable efforts to position their vehicle to obtain useful recordings and capture critical evidence.
- (f) Failure to Activate: During the initial sixty (60) days of use of BWCs, officers will not be disciplined for inadvertently failing to activate a BWC/ICV system as set forth in this policy; provided, however, that willful or intentional failure to activate the system as required by this policy, or willful or intentional deactivation of the system, may result in discipline.

#### **422.10 DEACTIVATION OF BWC/ICV - PROHIBITIONS AND EXCEPTIONS TO RECORDING**

- (a) Conclusion of Incident: Once activated, and subject to the exceptions set forth in this policy, the officer shall not purposely turn off the BWC or ICV device until the officer's involvement in the incident has concluded. Recording is to cease when the officer has completed their part of the active investigation or transport(s), and there is little possibility of further contact with any person involved in the event.
- (b) Temporary Deactivation of Audio: Audio recording contemporaneous with a BWC may be temporarily disabled for conversations with other officers or persons not involved with the call. Pursuant to RCW 9.73.090(1)(c), audio recording contemporaneous with an ICV shall not be disabled when the ICV is activated.

#### **422.11 PROHIBITED RECORDINGS**

- (a) Personal use of Department BWCs is strictly prohibited. Employees are prohibited from making personal copies of recordings created by a Department BWC or ICV device.
- (b) Unless expressly authorized by the Chief of Police or designee, the BWC/ICV should not be used intentionally to record:
- (c) Anything not involved with official duties.
- (d) Communications with other police personnel while not conducting law enforcement operations.
- (e) Communications with undercover officers or confidential informants.
- (f) When on break or otherwise engaged in personal activities.
- (g) While in a jail unless for a direct law enforcement purpose.

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- (h) The interior of medical, mental health, counseling, or therapeutic facilities unless conducting an active law enforcement investigation. Authorized recording in said facilities include:
  - 1. Recording the investigation of a crime committed at the facility
  - 2. A legal blood draw at a facility during a DUI investigation
  - 3. Taking a statement from a suspect or witness while in a facility
  - 4. Circumstances where an officer believes a confrontation is likely to occur.
- (i) While within the police stations, precincts or substations, except while taking a report at the station, precinct or substation or placing a suspect into one of the holding cells at the precinct. If so, announce as you enter the precinct or substation that you are recording. Turn off your recording after the suspect is placed and secured in the holding cell. Activate your recording each time you interact with the suspect in the cell until the suspect is released or transported to jail.

#### **422.12 DISCRETIONARY RECORDING**

Officers may exercise reasonable discretion to record, or not record, events in the following circumstances:

- When in a location where individuals have a reasonable expectation of privacy, such as bathroom or locker room, except if the officer is there to effect an arrest or serve a warrant.
- When respect for an individual's privacy or dignity outweighs the need to record an event. Examples may include, but are not limited to:
  - • Natural death scenes;
  - Death notifications;
  - Child or sexual assault victim interviews;
  - Cultural or religious objections to being recorded;
  - Sensitive communications such as matters of law enforcement intelligence or where the recording could hinder a criminal investigation.
  - When the officer has an articulable basis, based on the facts and circumstances of the particular situation, to conclude that recording would be unsafe or otherwise detrimental to the investigation or contact with the involved parties.
  - Discipline will not be imposed on an officer who provides an objectively reasonable basis for failing to record or stopping a recording.

#### **422.13 NOTIFICATION OF RECORDING**

The opinion of the Washington State Attorney General is that recording by police in a private residence is permissible.

- (a) Notification at Initial Contact: Upon initial contact with civilians during a call for service or an investigative contact, officers are to notify the civilian as soon as practicable

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that they are being recorded. Officers should ask the civilian if they want their identity, and/or communications, to remain confidential for public records purposes. Whenever possible, this notification shall be recorded, and should be repeated to any new arrivals during the contact when feasible.

- (b) Objections to Recording: If a civilian 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 the officer turn off the camera for a civilian who objects to having the interaction recorded. Officers should note for the record a reporting party's request to remain anonymous.
- (c) Notification to Non-English Speakers: Officers will make a good faith effort to communicate to non-English speakers, those with limited English proficiency, deaf persons, or persons hard of hearing that they are being recorded. The Department will develop a notification card to aid in this process.
- (d) Notification during Arrest: Consistent with RCW 9.73.090(1)(b), officers will again notify persons placed under arrest they are being recorded and verbally give warnings that are captured on the recording.
- (e) Notification Exceptions: Consistent with RCW 9.73.090(1)(c), officers are not required to inform the person being recorded if the person is being recorded under exigent circumstances; provided, however, that the officer should make the notification as soon as it is safe and practical to do so.

#### **422.14 DOCUMENTATION OF RECORDING IN POLICE REPORTS**

When the BWC or ICV is activated, officers are to document in their case report, notice of infraction(s), and/or citation(s) that a BWC and/or an ICV recording was made. If an officer does not activate the BWC or ICV, mutes the audio recording, or terminates the recording prior to the end of the event, the officer shall document this in their case report, including the circumstances and reason(s) why this occurred.

Any time an officer records any portion of a contact that the officer reasonably believes constitutes evidence in a criminal case, the officer will record the related case number and document the existence of the recording in the related case report.

#### **422.15 DOWNLOADING AND STORAGE OF BWC AND ICV RECORDINGS**

Officers are to download camera footage at least once per shift or after their shift on a Department-provided docking station; provided, however, that officers are to download camera footage as soon as practicable after a serious incident or when storage capacity is reaching its limit.

There may be circumstances where an officer is unable to download camera footage during or after shift. In such cases, officers will ensure the camera footage is downloaded at the beginning of their next regular or overtime shift, whichever occurs first. Absent extenuating circumstances, an officer shall not wait until return from regular furlough days or vacation to download camera footage unless approved by their direct supervisor.

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Under certain circumstances, the Department may require video to be downloaded at times other than those specified herein or may cause the video to be downloaded by someone other than the officer to whom the camera was issued.

#### **422.16 REVIEW OF BWC/ICV RECORDINGS - OFFICERS**

Reviewing Own Recordings/Others on Scene: Officers may view their own video recordings (and the recordings of other officers on scene) in the course of preparing their incident report(s) or other statement(s). Officers may request that other officers or law enforcement personnel from other agencies review video for law enforcement purposes.

When preparing an incident report or other statement, such as a use-of-force report that contains critical information that may have been captured by BWC video, if an officer observes information that they did not recall from memory, the officer must separately identify what is being documented from their independent recollection and what is being documented as a result of viewing the camera footage. Officers should identify this additional information as being located on and recollected as a result of viewing the video.

Officers need not review every video when preparing a report. Officers should only review those videos that may contain critical evidence captured at the scene.

In instances of alleged excessive or deadly force, until the completion of an administrative or outside agency investigation, access to the footage of the incident shall be restricted by RPD to involved officers, witness officers, Independent Investigative Team including community participants (IIT), Professional Standards, and their respective chains-of-command. RPD and the IIT will only release footage of such incidents per Washington State Public Disclosure and other related laws.

Public Safety Statement: If an officer is involved in a shooting, or other serious use-of-force, an officer may be required to provide a public safety statement prior to having the opportunity to review BWC or ICV recordings.

Viewer Application Entry: Every officer viewing a video will manually make an entry in the viewer application at the beginning of the viewing session stating the purpose for viewing the video.

Review, Retention and Distribution Prohibited: Officers shall not review video for purposes unrelated to their job duties, and under no circumstance shall an officer copy, retain or distribute a recording for non-law enforcement purposes.

Civilian Review Prohibited: Involved civilians/witnesses are not allowed to review BWC/ICV recordings at the scene.

Administrative Investigations: Officers are allowed to review any of their own BWC/ICV video in the course of preparing a compelled written administrative statement or compelled administrative interview in a manner consistent with the preparation of an incident report, as described above. Upon approval from the PSU investigator, an officer who is participating in an official investigation,

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such as an administrative investigation or criminal investigation, may be authorized to view other officers' relevant recordings.

#### **422.17 OFFICER INVOLVED SHOOTING (OIS), SERIOUS USE OF FORCE, SERIOUS MISCONDUCT**

Immediate Supervisor Possession of Video and Equipment: If an officer is involved in an officer-involved shooting, serious use-of-force, or is suspected of serious misconduct, the officer's supervisor should take physical custody of the BWC/ICV until the independent review team can take custody. The supervisor will take custody of the BWC/ICV outside of public view.

When an officer uses deadly force, the investigating agency may supervise the downloading of the video. A copy of the video shall also be maintained by the Richland Police Department for its internal processes.

#### **422.18 NOTIFICATION TO SUPERVISOR**

Officers should inform their supervisor if the BWC/ICV may have recorded an incident that they reasonably believe might:

- Result in a complaint
- Be useful for training
- Be an unusual or newsworthy event
- Contain graphic or sensitive material

#### **422.19 RECORDS RETENTION AND DISCLOSURE**

- (a) Records generated from the Department's BWC/ICV program will meet minimum retention requirements provided under Washington law; provided, however, that Department policy may dictate that certain videos be maintained beyond the identified state retention period. RPD will consult with the City Clerk's Office to ensure proper application of state retention rules.
- (b) Under Washington state law, BWC/ICV recordings that are known to have captured a unique or unusual action from which litigation or criminal prosecution is expected or likely to result must be retained until litigation/prosecution concludes and all appeals are exhausted.
  1. Consistent with RCW 10.122.140, officers will ensure that the electronic recording of all or part of a custodial interrogation is identified, accessible, and preserved throughout the length of any resulting sentence, including any period of community custody extending through final discharge.
  2. Footage related to officer-involved shootings, critical incidents, homicides, serious sexual assaults, and cases in which RPD has received a notice to preserve evidence shall be retained in Evidence.com until litigation/prosecution concludes and all appeals are exhausted.

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3. Footage related to unsolved homicides and sexual assaults will be kept consistent with the Department policy for records retention.
  4. Videos released through the Washington Public Records Act will be retained in the City's public records processing software for two (2) years from closure of the request.
  5. All other body worn camera videos not known to have captured a unique or unusual incident or action from which litigation or criminal prosecution is expected or likely to result, or that does not constitute part or all of a custodial interrogation, will be retained in Evidence.com for ninety (90) days and automatically purged.
- (c) Inadvertent Recordings Review and Deletion: An officer may inadvertently record themselves or others. These accidental recordings do not meet the statutory definition of a public record in RCW 40.14.010 because they are not made in connection with the transaction of public business and may be deleted upon request.
- (d) In the event of an accidental activation of the body worn 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 by submitting a written request, by email, including the date and time of the inadvertent/accidental recording through their chain-of-command to their Division Commander or designee. The Division Commander or designee shall approve or deny the request. If deletion is approved, the Division Commander shall direct the proper staff to delete the recording from the system.
- (e) Public Disclosure: BWC/ICV video will be made available to the public through public records requests pursuant to Chapter 42.56 RCW. Prior to release, videos from BWC/ICV video will be reviewed and redacted consistent with statutory exemptions under Washington law.
- (f) Prosecutors, and other LE Agencies: Recordings shall be made available to prosecuting and law enforcement agencies for criminal justice purposes, traffic or civil infraction enforcement, code enforcement, licensing violations, or to defend the City or its employees in litigation.

#### **422.20 RESPONSIBILITIES**

Supervisors: Supervisors are responsible for ensuring that their officers use and maintain their BWC and ICV equipment in accordance with this policy. Supervisors will review all BWC/ICV recordings associated with a use-of-force report, a pursuit report, or when possible prior to taking any civilian complaint.

Officers: Officers are responsible for ensuring that they use and maintain assigned BWC and ICV equipment in accordance with this policy.