

# EXHIBIT A

# Seattle Police Manual

## **16.090 – In-Car and Body-Worn Video**

Effective Date 03/08/2017 DRAFT

This policy section applies to all sworn employees who operate In-Car Video (ICV) or Body-Worn Video (BWV) systems. The goal of these systems is to enhance public trust in the Seattle Police Department by providing greater transparency into officer actions. Recording law enforcement interactions between officers and members of the public provides valuable information for officer accountability and effective criminal investigations.

The Department will continually review both in-car and body-worn video programs, including this manual section and related training, considering changes in best practices, technology, and legal standards.

### **16.090-POL 1 Recording with ICV and BWV**

#### **1. The Department Assigns ICV Microphones and BWV Cameras and Installs Chargers**

Each precinct will position ICV microphone and BWV camera docks in a way that allows employees to access their equipment.

Each precinct will assign ICV microphones to squads and label them accordingly. Each squad will receive at least one microphone per officer and at least one spare. Sergeants may assign specific microphones from their allotment to individual officers.

The department will assign BWV cameras to employees individually. Employees may not wear any personally-owned camera device. The Department only authorizes those camera units issued by SPD.

#### **2. All Employees Operating ICV-Equipped Vehicles and BWV Cameras Must Have Completed Training**

Before employees deploy with an ICV-equipped vehicle or BWV camera, they will complete Department training on the proper use of the equipment and procedures for uploading recorded video. This training will include:

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- System preparation and operation
- Department policy on camera usage
- Pointing of the ICV camera and placement of the BWV camera

As public and officer safety considerations permit, employees will make reasonable efforts to position the vehicle and camera to obtain useful recordings and capture critical evidence. Employees will not position vehicles to avoid recording an event.

Employees will wear the BWV camera on the upper torso.

### **3. All Employees Operating ICV and/or BWV Must be in Uniform**

Field Training Officers in plainclothes need not wear a portable ICV microphone or BWV camera.

See also [RCW 9.73.090\(1\)\(c\)](#)

### **4. Employees Address and Note System Malfunctions**

At the start of the shift, employees will prepare ICV and BWV systems as outlined in the training and 16.090 TSK-1.

Both employees in two-officer cars must log into the ICV system and sync their ICV microphones.

If an employee discovers an operational issue with ICV or BWV at any time during the shift, the employee will contact ITS for troubleshooting (if applicable), note the issue in a CAD update, and notify a supervisor as soon as practicable.

### **5. Employees Recording Police Activity**

#### **a. Notification of Recording**

Employees shall notify persons that they are being recorded as soon as practical, and the notification must be on the recording. Employees will make reasonable efforts to communicate to non-English speakers, those with limited English proficiency, deaf persons, or persons hard of hearing that they are being recorded.

Employees will make reasonable efforts to repeat the notification, if practical, for additional people that become involved in the recording.

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Consistent with [RCW 9.73.090\(1\)\(b\)](#), employees will again notify persons placed under arrest they are being recorded and verbally give Miranda warnings on the recording.

## **b. When Employees Record Activity**

When safe and practical, employees will record the following police activity, even if the event is out of view of the camera:

- Dispatched calls, starting before the employee arrives on the call to ensure adequate time to turn on cameras
- Traffic and Terry stops
- On-view infractions and criminal activity
- Arrests and seizures
- Searches and inventories of vehicles, persons, or premises
- Transports (excluding ride-alongs and passengers for meetings)
- Vehicle eluding/pursuits
- Questioning victims, suspects, or witnesses (This does not include conversations with persons merely wishing to pass on information about general criminal activity not tied to a specific event.)

If circumstances prevent recording at the start of an event, the employee will record as soon as practical.

Employees will record the entire event to its conclusion unless specifically instructed otherwise by this manual section.

If the employee is on a perimeter post at an extended major incident investigation, the on-scene supervisor, or FIT commander where FIT has been notified, may authorize ICV and BWV recording to be stopped when he or she reasonably believes further recording will not capture audio/visual evidence regarding the incident or enforcement efforts.

## **c. Discretion in Recording**

Employees reasonably exercising discretion under policy subsections 5c – 5g will not be subject to discipline for the decision to record or not record those portions of an event.

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Unless otherwise prohibited by this policy, employees may initiate recording any time they determine it would be beneficial to capture an event or activity.

## **d. Recording in Sensitive Areas**

Employees will not record in restrooms, jails and the interiors of medical, mental health, counseling, or therapeutic facilities unless for a direct law enforcement purpose, such as a crime in progress.

## **e. Recording in Residences and Private Areas**

Employees will ask for consent to record with BWV in residences or other private areas not open to the public unless there is a crime in progress, or other circumstances exist that would allow the employee to be lawfully present without a warrant. The request and any response will be recorded.

If any person with legal standing denies permission to record, employees will stop recording with BWV while they are in the private area. However, employees will continue to record ICV audio, if equipped, and notify the persons involved of the continued audio recording.

## **f. Protecting Privacy and Dignity**

There may be limited circumstances when the respect for an individual's privacy or dignity outweighs the need to record an event.

Such circumstances may include natural death scenes, death notifications, child or sexual assault victim interviews, cultural or religious objections to being recorded, and when the use of BWV would impede or limit the cooperation of a victim or witness.

When an employee believes such circumstances exist, the employee may deactivate the BWV.

## **g. Recording Protected Activity / Demonstrations**

Employees will not record people lawfully exercising their freedom of speech, press, association, assembly, or religion unless they have probable cause to believe that criminal activity is occurring or when ordered to record by a supervisor, as provided below.

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When an imminent risk to public safety or large-scale property destruction appears likely, supervisors at the squad level and/or the incident commander of an event may order employees to record with BWV. Under such direction, employees will record until ordered to cease recording.

Protected activity unintentionally captured is not a violation.

## **h. Employees Stating the Reasons for Stopping BWV**

Employees who stop recording during an event will state on the recording their intention to stop recording and explain the basis for that decision. Employees will also document the reason(s) in the GO report and/or CAD update.

Supervisors who direct that recordings cease will direct employees to document the order in the GO report and/or CAD update.

## **i. Determining the Conclusion of an Event**

An event has concluded when both of the following apply:

- The employee has completed his or her part of the active investigation; and
- There is little possibility that the employee will have further contact with any person involved in the event

For transports to a King County jail facility, the event concludes just before the employee enters the sally port of the facility.

For transports to medical facilities, the event concludes when the employee reaches the transport destination, and the employee is exiting the vehicle.

For transports to other locations, the event concludes when the employee reaches the transport destination, and the subject has been taken into the destination.

## **6. Employees Will Enter Data for Recorded Events**

Employees will assign the appropriate event type for all recordings and enter any related GO or event number(s) in the proper format. (YYYY-#####)

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## **7. Employees Will Document the Existence of Video or Reason for Lack of Video**

Employees will document the existence of video in a call update and any related GO report, Street Check, Notice of Infraction, Criminal Citation, or Traffic Contact Report (TCR).

If this policy requires that an event be recorded, and the employee is aware that there is no recording or there was a delay in recording, employees must explain in writing why it was not recorded or why the start of the recording was delayed.

Employees not logged to a call or event but capture video of the event will log to the call and note that the event was recorded in a call update.

## **8. Employees Shall Initiate Upload of Recorded Video and Recharging of Equipment Before Going Out of Service**

Before going out of service, employees will initiate ICV video upload from vehicles and dock their BWV cameras to initiate upload of BWV video and recharging. If the video upload process is not initiated before the end of shift, employees will notify a supervisor.

Employees will also dock their ICV microphones for recharging.

## **9. Specialized Units May Request Exceptions**

The department recognizes that in relatively rare circumstances units may perform specific tasks during their normal duties that make using the ICV or BWV impractical. Units may request exceptions to recording with ICV and/or BWV, for those specific tasks, from the Chief of Police. Any exceptions granted are valid for a term not to exceed one year and may be renewed annually at the discretion of the Chief of Police for good cause shown.

Units will request the exceptions by department memorandum outlining the specific tasks and good cause justification. All approvals will be for good cause, which will be set forth in a writing signed and dated expressly by the Chief of Police. The Chief of Police and affected section commanders will maintain a file of approved exceptions. Section commanders will provide a copy to the Office of Professional Accountability and may provide copies of the exceptions to the affected personnel under their command.

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## 16.090-POL-2 Reviewing Department Video

This policy applies to all employees who review ICV and BWV recordings.

### 1. All ICV and BWV Recordings and Related Data are the Property of the Seattle Police Department

Department policy governs all access, review, and release of in-car and body-worn video.

[SPD Manual Section 12.080 – Retention and Disclosure of Department Records](#) addresses video retention periods and release of video to the public, including persons wishing to file misconduct complaints.

[SPD Manual Section 12.045- Booking Photo Comparison Software](#) addresses the use of biometric searching of footage.

Employees will not make copies of videos, by any means, for personal use.

### 2. Employees Shall Not Tamper With, Alter, or Delete Video

**Exception:** This does not apply to personnel tasked with system maintenance who purge videos under established retention guidelines.

### 3. Employees May Review Recorded Video

Employees may review their own recorded video except in instances of FIT investigations. The FIT manual outlines when employees may view video in those cases.

The Department, including supervisors, OPA, Training, Audit, and investigatory personnel may view ICV and BWV recordings for these purposes:

- Complaint
- Criminal investigation
- Officer-involved collision
- Vehicle pursuit investigation or review
- Public disclosure request

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- Use of force review or investigation (See FIT Manual if applicable)
- Performance appraisal
- As part of the Early Intervention System (EIS)
- Training purposes, with the permission of the involved employees
- Audit and Quality Control/Troubleshooting

## **4. Minor Misconduct Discovered During BWV Review Will Not Result in Discipline**

If, in the course of viewing in-car or body-worn video, minor acts of misconduct unrelated to the original reason for viewing the video are discovered, they will not result in discipline or a sustained finding. However, such acts may result in a training referral or career counseling and may be included in an employee's performance evaluation.

In the context of in-car and/or body-worn video review, minor acts of misconduct will be handled either through mediation or the named employee's chain of command for appropriate follow up. In the context of this policy, examples of minor misconduct include but are not limited to uniform violations, rudeness, and profanity.

**Exception:** Profanity and slurs that disparage a protected class under city, state, or federal law are not considered minor misconduct.

## **5. Users Shall Note the Purpose for Viewing Video**

Any employee viewing a video after it has been uploaded will manually make an entry in the viewer application at the beginning of the viewing session stating the purpose for viewing the video.

Employees will refer members of the public who wish to view video to file a public disclosure request.

## **16.090-TSK-1 Preparing the In-Car and Body-Worn Video Systems**

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When deploying with body-worn video (BWV) or a vehicle equipped with an in-car video (ICV) system, an **employee**:

1. **Verifies** that all indicators show that the ICV microphone, and BWV camera are fully charged.
2. **Positions** cameras correctly.
3. **Synchronizes** the ICV microphone of the primary and secondary employee (if applicable) with the ICV system.
4. If the system malfunctions, **troubleshoots** using steps included in the initial training such as system reboot, re-synching of the portable microphone(s), and "check out" of the hard drive.
5. If the initial troubleshooting does not fix the problem, **contacts** the IT Section and follows their instructions.
6. If the problem is resolved, **makes** an entry in the MDC log of the malfunction and steps taken to resolve it.
7. If the problem is not resolved, **notifies** supervisor of the malfunction. (See 16.090-TSK-2)

## 16.090-TSK-2 Supervisor Responding to a Malfunction of ICV or BWV

After receiving a report that an ICV system or BWV camera has malfunctioned, a **supervisor**:

1. For BWV, **arranges** for the employee to get a replacement BWV camera, if one is available.
2. For ICV, **assigns** the employee(s) to visit ITS, or **switches** the employee(s) to a vehicle with a functioning ICV system, if one is available.
3. **Approves** the employee working without use of ICV and/or BWV if there are no vehicles with a functioning ICV system or spare body cameras available.
4. **Flags** the vehicle with the malfunctioning ICV system as "out-of-service".
5. **Requests** repair of the malfunctioning system by ITS.