

# 304

## Body-worn Cameras

### Edmonds Police Department Policy

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#### **304.1 PURPOSE AND SCOPE**

This policy describes the use of body-worn cameras (BWC), patrol vehicle cameras (PVC), and the management of video gathered from each. The Edmonds Police Department will continually review this policy and consider changes in best practices, technology, and legal standards. The purpose of this technology is to enhance personnel and community safety, not for routine personnel management.

Body cameras are a valuable tool for promoting transparency in law enforcement by recording citizen contacts with police officers. The Edmonds Police Department uses body cameras to contemporaneously document citizen contacts. While it does not provide a complete account of a police contact, video does provide additional perspective to be considered along with other information.

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, EPD shall never rely solely upon video recordings as the basis of an event. In every event, EPD shall review and consider all evidence (such as witness statements, law enforcement statements, forensic analysis, documentary evidence, etc.) when making decisions about any event.

While the Edmonds Police Department shall never rely solely upon video recordings as the basis of an event, video footage produced by body cameras may be used as evidence in civil or criminal investigations, reviewed administratively as described below, used as a tool in law enforcement training and utilized as a reference in incident documentation when authorized by this Policy.

#### **304.1.1 POLICY**

It is the policy of the Edmonds Police Department to use BWCs & PVCs to effectively document contacts between Edmonds Police Officers and the public, while considering legitimate privacy interests. Commissioned personnel working in a patrol function who are assigned body cameras shall wear them and record their encounters as defined by this policy while on duty or during off-duty details.

Additionally, other commissioned staff shall wear their cameras while working in the field, conducting investigations or interviews, and may wear BWCs during training or at other times where camera use may be beneficial in the performance of duties. This does not apply to personnel in a class A uniform while attending court or personnel in a dress uniform.

# 304

## Body-worn Cameras

### Edmonds Police Department Policy

---

#### 304.2 DEFINITIONS

The following definitions relate to terms used within this policy:

**Activation** – Any process that starts a recording on a body-worn camera or patrol vehicle camera.

**Advisement** – Statement made by an officer informing that a communication, conversation, or interaction with a citizen is being recorded.

**Body-worn Camera Videos** – Recorded media consisting of audio-video signals, recorded and digitally stored on a storage device or portable media.

**Body-worn Camera (BWC)** – Camera system that captures audio and video signals, capable of being worn on an officer's person that includes, at a minimum, a camera, microphone, and recorder.

**Forensic Imaging Unit (FIU)** - A unit within the Edmonds Police Department comprised of commissioned officers and civilian staff who have a working knowledge of the methods and procedures related to the duplication, storage, and retrieval of BWC and patrol car videos, as well as video forensics and evidentiary procedures.

**Labeling of Video** – Marking a video with the case number and category.

**Live Video Feed** – The ability to monitor a recording being made on a body-worn or patrol vehicle camera as it is being created.

**Patrol Vehicle Camera (PVC)** – Camera system that captures audio and/or video signals from outside or within the patrol vehicle that includes a camera, a microphone, a recorder, and other hardware associated with recording.

**Patrol Vehicle Camera Videos** – Recorded media consisting of audio-video signals recorded and digitally stored on a storage device or portable media.

**Retention of Video** – Retention of video refers to how long a video captured on body-worn or patrol car camera is kept or retained by the Edmonds Police Department. A video is retained according to its category.

**Secure Video Server** – A cloud-based data warehouse where body-worn camera video and patrol vehicle camera video footage is stored and retained.

**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; this policy does not apply to authorized surreptitious interception of electronic

# Body-worn Cameras

## Edmonds Police Department Policy

---

communications for lawful investigative purposes per RCW 9.73.210 and RCW 9.73.230.

### 304.3 OFFICER RESPONSIBILITIES

- (a) **Body-worn Camera (BWC)/Patrol Vehicle Camera (PVC) Training:**

Prior to wearing and operating a body-worn camera or patrol vehicle camera, officers are required to successfully complete department-authorized BWC and PVC training. This training will cover topics including, but not limited to, hardware, software, department policy, and operational procedures. Officers may receive refresher training as deemed necessary or upon request.
- (b) **Requirement to Wear Body-worn Camera (BWC) and position of Patrol Vehicle Cameras (PVC):**

All uniformed officers assigned a BWC are required to wear the department-approved camera while on duty and during off-duty details unless a camera is unavailable. Notification shall be made to the shift supervisor if a camera is unavailable prior to starting a shift. Officers shall affix their cameras to the front torso area of their uniforms or external vest carriers. Any request to wear the assigned BWC in another location shall require approval by the Chief of Police or their designee prior to deployment. Privately owned body cameras are not permitted to be worn and operated while on duty. Patrol vehicle cameras will be affixed in the same location for all equipped vehicles. These locations shall not be moved or tampered with by the officer operating said vehicle unless necessary for improved function or reliability. Some body-worn cameras include an extra remote lens/camera designed to be mounted or situated to provide a better vantage or point of view (POV) perspective. If assigned a second or remote lens, officers should wear these as part of an appropriate mount attached to their head, neck, or shoulder area. Attachments or mounts for these cameras are available for glasses, hats, epaulets, and similar locations.
- (c) **Requirement to Use Assigned Body-worn Camera (BWC) and Patrol Vehicle Camera (PVC):**

Officers assigned a BWC or operating a vehicle equipped with a PVC shall activate the camera when engaging in law enforcement activities as described in this policy. Activation of either camera system should only be done when it is safe and feasible to do so. Officers shall not compromise their safety to activate their camera. Camera activations should be consistent and in accordance with this policy.
- (d) **Requirement to Ensure Accurate Recording:**

Body-worn Camera (BWC) video recordings should be made in such a way that the face of the subject being interviewed or interrogated is visible, whenever possible and reasonable. Efforts should consistently be made to ensure that the angle, focus, and field of vision accurately depict the subject and environment in which the subject is being interviewed or interrogated.
- (e) **Requirement to Maintain & Inspect the Body-worn Camera (BWC):**

Officers assigned a body-worn camera are required to ensure the camera is regularly inspected and in good working order. Officers should verify the camera is fully charged at the start of their

# Body-worn Cameras

## Edmonds Police Department Policy

---

shift and then place it on a charging/upload docking station at the conclusion of their shift. Should a camera appear damaged or not functioning properly, the officer shall report the damage to their supervisor and obtain a replacement camera if available.

The damage report and replacement camera should be obtained as soon as feasible, but not in lieu of responding to priority calls or concluding an active incident. Damaged or improperly functioning devices should be reported to a supervisor and the Camera Program Administrator for further analysis or repair and shall not be redeployed until the issue(s) are addressed and/or resolved.

### 304.4 STARTING AND ENDING BODY-WORN CAMERA OR PATROL VEHICLE CAMERA RECORDING

- (a) Officers shall activate patrol vehicle cameras and body-worn cameras to record the following:
1. All emergency driving (e.g., whenever patrol car emergency lights or sirens are activated), failures to yield, or pursuits.
  2. Calls for service with any potential for disturbance, conflict, enforcement action, or where a suspect is on scene.
  3. Investigations and citizen contacts, including (or those are likely to include): arrests, detentions, searches, traffic stops, investigative social contacts, non-social encounters with mental health consumers.
  4. Transportation of prisoners until transfer of custody.
  5. Any encounter that becomes adversarial after initial contact or any situation where the officer believes it would be appropriate to document the encounter.
  6. Any incident or encounter where the officer believes that video recordings of the incident will be helpful for department operations.
  7. Interacting with an individual who requests that the camera be turned on.
  8. Any custodial interrogation where electronic recording is required under Policy 600.4, which is conducted outside of places of detention with recording hardware installed, such as jails, police stations, holding cells, or correctional or detention facilities.
- (b) Officers will immediately activate the BWC at the start of any action listed under subsection (a), unless immediate activation is not possible due to an imminent threat to the officer or another person's safety, or the action requires a response that physically prevents an officer from activating the camera. Officers are advised to put safety ahead of the requirement to record the

# Body-worn Cameras

## Edmonds Police Department Policy

---

encounter. In such cases, the officer shall activate the BWC at the first available opportunity to do so, and the officer shall document why there was a delay in activation.

- (c) Calls for service for cold investigations do not need to be recorded unless the conduct of the victims or contacts dictates otherwise.
- (d) Once recording has started, the camera shall continue to record until the conclusion of the incident unless the officer ceases involvement in the incident and leaves the scene.
- (e) In an officer-involved shooting, officers shall turn their cameras off prior to giving their public safety statements.
- (f) Officers should record on the body camera or in a police report the reasons for intentionally turning off the body camera if the recording is stopped by the officer prior to the conclusion of the law enforcement activity.

### **DECISION TO NOT RECORD**

The sensitivity or exigency of a situation may warrant turning off or not activating the body camera. The decision not to record law enforcement activity shall be made by the officer wearing the camera and shall be determined by facts and circumstances as required by policy. Officers are required to document incidents where they choose not to record or to end a recording prior to the end of an encounter. Facts supporting such a decision may include the following:

- (a) When unsafe or impractical – There exists an imminent threat to the officer or another person's safety, or a law enforcement activity requires a response that physically prevents an officer from activating the camera. Officers are advised to put safety ahead of the requirement to record the encounter. The officer shall activate the BWC at the first available opportunity to do so, and the officer shall document why there was a delay in activation.
- (b) Places where a heightened expectation of privacy exists, such as restrooms, jails, or hospitals, unless for a direct law enforcement purpose, such as a crime in progress or the recording of the location is material to a criminal investigation.
- (c) Sensitive communications – Law enforcement activity involving sensitive communications, matters of law enforcement intelligence or where recording the event could hinder a criminal investigation.
- (d) When a community member objects to being recorded – If a citizen objects to being recorded, the officer may 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

## Body-worn Cameras

### Edmonds Police Department Policy

---

camera for a citizen who objects to having the interaction recorded. The officer may also choose not to record or to stop recording and document that this was due to objection by a community member.

- (e) Officers may exercise discretion in recording conversations with crime witnesses and members of the community who wish to report or discuss criminal activity in the neighborhood. In these instances, officers should consider continuing to record the conversation but deactivate the video function of the BWC and record audio only.

If an officer has exercised discretion to not record a contact as described above, the officers shall immediately activate the body-worn camera if the encounter turns adversarial or confrontational.

Officers shall document by written report (or CAD if no report is written) 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. If the reason compelling the officer not to record or to suspend recording is overcome or ceases to be a concern, officers are required to activate their body-worn cameras.

Officers reasonably exercising discretion in not recording or ending a recording during a contact will not be subject to discipline for the decision to record or not record so long as the officer provides a reasonable explanation for their decision.

Officers recording law enforcement activity who inadvertently turn off their body camera shall not be subject to discipline, unless the officer has been previously counseled for turning off or failing to activate their body camera. Consideration will be given to the circumstances surrounding the end of the recording (physical altercation, equipment shifting, etc.).

#### **304.5 ADVISEMENT – WHEN REQUIRED**

Edmonds Police officers recording with body-worn cameras will provide an advisement to individuals present informing them that they are being audio and video recorded. This is a courtesy and matter of policy, not a legal requirement.

Safety is of paramount importance and officers should prioritize officer safety over the need to provide an advisement. If a situation requires immediate action prior to an advisement being given, the officer should provide the advisement as soon as practicable.

Prior to a custodial interrogation, officers shall inform individuals that they are being audio and video recorded with a body-worn camera. This statement, along with the Miranda advisement and/or access to counsel, shall be included in the recording unless the arrest situation dictates otherwise. This should be thoroughly documented in the officer's incident report.

Officers will make reasonable efforts to communicate to non-English speakers, those with limited

## Body-worn Cameras

### Edmonds Police Department Policy

---

English proficiency, deaf persons or persons hard of hearing that they are being recorded. The Department shall provide a document all officers can provide to citizens to assist in this process.

#### **304.6 OFFICER BODY-WORN CAMERA (BWC) AND PATROL VEHICLE CAMERA (PVC) VIDEO FILEMANAGEMENT**

Prior to the end of their shift or as soon as practical following an incident, officers will follow protocol for labeling, categorizing, and uploading videos from both their BWC and PVC onto the department's secure video server. Care should be taken to ensure accuracy when labeling and categorizing. Officers who are unable to label and categorize video files before the end of their shift shall notify a supervisor prior to securing and completing the task at the beginning of their next shift.

The delay in labeling and categorizing video files shall not extend over an officer's days off unless exigent circumstances exist and supervisory approval is received. A supervisor may also arrange for another officer or designated employee to download video if an unavoidable situation arises where an officer is unable to complete the downloading, labeling, and categorization of files. This will be documented in a supplemental report if a case report was taken. If no report was taken, then the actions will be added to the call notes within CAD.

(a) Documenting Use of the Body-worn Camera (BWC) or the Patrol Vehicle Camera (PVC):

Officers shall document in their police reports when they operated a BWC or PVC. If the camera was not activated, delayed in activation, muted, or turned off during an incident where a police report was taken, officers shall explain in their report the reason for the deviation. In instances where no police report is written, but the camera(s) were used, officers should note the use in the call notes within CAD.

(b) Video Not a Substitute for Report:

An incident captured on a body-worn camera or patrol vehicle camera is not a substitute for a complete and thoroughly written police report. Officers must write a police report when required and may not use the body camera video as a substitute for or basis to abbreviate their documentation of an incident.

(c) Report Problems:

Officers shall promptly report any problems they may encounter with the body camera or its operation to their supervisor, who will forward the information to the Camera Program Administrator.

## Body-worn Cameras

Edmonds Police Department Policy

---

### **304.7 UNAUTHORIZED USE OR ACCESS TO BODY-WORN CAMERAS, PATROL VEHICLE CAMERAS AND ASSOCIATED VIDEO & AUDIO RECORDINGS**

All employees shall abide by the policies and procedures related to body-worn cameras, patrol vehicle cameras and the recordings created by each. The following uses of these systems and recordings are expressly prohibited:

- (a) Surreptitiously recording any other employee of the department or any other person.
- (b) Use of body-worn or patrol vehicle cameras for non-work-related purposes or other use outside legitimate law enforcement duties. Use of the devices for training, maintenance, mechanical diagnosis or set up is allowed so long as the recordings created are labeled and categorized correctly for retention.

All body-worn and patrol vehicle camera videos are the property of the Edmonds Police Department. Dissemination outside of the agency is strictly prohibited, except as required by law and pursuant to the provisions of this and other policies.

Employees are prohibited from accessing the secure video server except for legitimate law enforcement purposes, including authorized review of body camera video as described in this policy or for work related to their job assignment. Employees should be aware that all activity associated with accessing files on the secure video server is tracked and subject to audit.

#### **304.7.1 ACCESSING LIVE VIDEO FEED AND CAMERA LOCATION INFORMATION**

Department supervisors, including corporals and sergeants, members of the FIU, and the Camera Program Administrator, will have access to the live video feed and the current known location of any department-owned body-worn camera that is actively recording. This live feed may only be accessed in emergency situations when the officer cannot be reached through other available means. Department supervisors will receive training on these features.

The live feed from a body-worn or patrol vehicle camera will only be available when the camera is actively recording. This feature aims to enhance officer safety. The location and live video feed from body-worn cameras shall not be used for routine personnel management.

Any employee accessing, monitoring, or using the live feed feature must comply with this policy at all times. Personnel are reminded that access to and use of this evidence monitoring feature is governed by this and other department policies. All access to and use of live feeds is tracked and subject to audit to ensure system security and compliance with policy. The use of such systems must be for

## Body-worn Cameras

### Edmonds Police Department Policy

---

departmental operations or other authorized purposes.

#### **304.7.2 REVIEW OF BODY CAMERA OR PATROL VEHICLE VIDEO**

Officers may view their own body camera video at any time in accordance with this policy. Officers shall be allowed to review body camera prior to providing a written police report, providing a statement or answering any questions as a part of any interview or questioning.

An officer who did not or was unable to review their body-worn video before providing a written police report, providing a statement or answering any questions as a part of any interview or questioning may not receive any discipline based solely upon a difference or discrepancy between the officer's written report, statement, or interview and the video evidence, unless the Edmonds Police Department can demonstrate the employee knew the information was discrepant at the time the report was written, statement provided, or interview.

Recordings may be reviewed by individuals other than the recording officer in any of the following situations:

- (a) Subject and witness officers may review relevant body camera footage prior to completing their police reports or providing a statement pursuant to a complaint, an internal affairs investigation, SMART, or OII investigation.
- (b) By any supervisor conducting an administrative review of video files to assist with labeling or categorization – Review of video shall not be used as the basis to randomly search for possible policy or procedure violations.
- (c) By a supervisor completing a citizen complaint review or investigating a specific act of alleged officer misconduct – Review of video shall be related to the specific complaint(s) and not used as the basis to randomly search for other possible policy or procedure 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. Any inadvertent minor policy or procedure violations discovered during this review but not mentioned in the complaint shall be addressed at the lowest reasonable level.

- (d) For use of force, collision or pursuit review – Review of video shall be related to the use of force, collision or pursuit, and not used as the basis to randomly search for employee misconduct.
- (e) By technical support – The FIU or the Camera Program Administrator for purposes of assessing

## Body-worn Cameras

### Edmonds Police Department Policy

---

proper functioning of body-worn and patrol vehicle cameras, to include review for the purpose of records management.

- (f) By the County prosecutor in conjunction with their role after an officer involved shooting or other critical incident associated with a SMART investigation, or other criminal review of an incident.
- (g) By the Professional Standards Sergeant or assigned Internal Affairs investigators participating in an official IA investigation authorized by the Chief of Police to investigate a specific act of alleged officer misconduct in a complaint. Review of video shall be related to the specific complaint(s) and not used as the basis to randomly search for other possible policy or procedure violations.
- (h) By a department investigator who is participating in a criminal investigation. Investigators may exercise discretion to review video with other involved parties such as victims, witnesses and suspects; or by civilian employees who are assigned to roles that support the investigation and prosecution of suspects and/or to provide support to victims of crimes under investigation by EPD, i.e., Victim Services Coordinator.
- (i) By an employee's or bargaining unit's legal counsel and/or union representation representing an officer in a critical incident associated with any investigation, prior to the officer providing a statement pursuant to an administrative or criminal investigation.
- (j) For training purposes – Recordings may be viewed for training purposes. Prior to any recordings being used, all officers involved with the recording (recording officer and others present at the scene in question) will be notified. If an involved officer objects to showing a recording, the recording will not be used.
- (k) By the City's legal representative involved in representing the City in an official matter, such as an administrative investigation, a lawsuit, or a criminal investigation.
- (l) Pursuant to a subpoena or public records request.
- (m) By a supervisor that has been made aware of a specific act(s) showcasing the actions of an officer or citizen that reflects positively on the Edmonds Police Department or that may be of public interest.
- (n) Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review the available body-worn video with the approval of assigned investigators or a supervisor.

# 304

## Body-worn Cameras

### Edmonds Police Department Policy

---

If in the course of viewing any BWC/PVC video, inadvertent minor policy or procedure violations are discovered, they will be addressed at the lowest reasonable level unless the history of the officer necessitates a higher level of corrective action or discipline.

#### **304.7.3 DOWNLOADING OF VIDEOS**

The only personnel allowed to download body-worn camera and patrol vehicle camera videos from the secure server will be the members of the FIU, Camera Program Administrator, the Detective Sergeant and Corporal, Professional Standards Unit, and specially trained and designated employees of the Edmonds Police Department.

Video downloads will be done for law enforcement purposes and/or public records requests only. Employees should be aware that all activity associated with accessing and downloading files on the secure video server is tracked and subject to audit. If any downloads are needed from anyone not listed above, a request will be sent to the Assistant Chief of Police, Support Services.

#### **304.8 OPERATION AND OVERSIGHT OF THE BODY-WORN AND PATROL VEHICLE CAMERA PROGRAM**

Operation and oversight of the body camera program is the responsibility of the designated Camera Program Administrator. The Camera Program Administrator has responsibilities to include but not limited to:

- Operation and user administration of the system.
- System evaluation.
- Coordination with the Information Technology Department (IT) and Forensic Imaging Unit (FIU) regarding system related issues.
- Standard maintenance of body camera videos to include procedures that ensure proper review, retention and release of body camera videos.
- Coordination of the release of recorded media pursuant to media requests, public records requests and subpoenas.

The Camera Program Administrator will work with an established FIU member(s) and the Training Unit to coordinate initial and ongoing training of all personnel who use the devices or access the associated recordings. The Camera Program Administrator will also assist with coordinating supervisor training, records training, device issuance, equipment issues, and coordination with the vendor.

# 304

## Body-worn Cameras

### Edmonds Police Department Policy

---

#### **304.9 RETENTION OF BODY CAMERA AND PATROL VEHICLE VIDEOS**

The department will adhere to the [Washington State Law Enforcement Records Retention Schedule](#) for all recordings created by body-worn and patrol vehicle cameras.

Videos related to officer-involved shootings, critical incidents, homicides, serious sexual assaults, and cases in which the city has received a notice to preserve evidence shall be retained on the secure video server until all trial and appellate litigation has been completed. The Detective Sergeant shall be responsible for notification to FIU under these circumstances. Videos related to unsolved homicides and sexual assaults shall be kept consistent with state law or the department policy for records retention.

- (a) Videos related to internal affairs investigations shall be classified accordingly, downloaded and made part of the IA file. The videos will be retained in accordance with the Washington State Records Retention Schedule.
- (b) Videos labelled as evidentiary shall be retained on the secure video server in compliance with state law and until all trial and appellate litigation has been completed.
- (c) Videos labelled non-evidentiary shall be retained on the secure video server for 90 days and thereafter may be destroyed in accordance with the applicable records retention schedule (RCW 42.56.240).
- (d) Videos redacted for a public records request shall be retained 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 Assistant Chief, Support Services. The Assistant Chief shall approve or deny the request and forward the decision to the FIU for action.

Employees shall not tamper with, alter, or delete video. This does not apply to personnel tasked with system maintenance who purge videos under established guidelines.

#### **304.10 RELEASE OF BODY-WORN OR PATROL VEHICLE CAMERA VIDEOS**

The department may release body-worn or patrol vehicle camera recordings in the following circumstances.

- (a) For Criminal Justice Purposes: Body-worn or patrol vehicle camera videos may be accessed for criminal discovery purposes directly by prosecutors, whose offices shall have an account for the secure video server. 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

## Body-worn Cameras

### Edmonds Police Department Policy

---

pending cases by inputting the law enforcement incident report number into the secure video server. Discovery of body camera videos released to the defense bar shall be made through the prosecutor and will include notification to Edmonds PD.

(b) To the public or media:

- Members of the public or media who wish to view video shall be required to submit a public records request pursuant to RCW Chapter 42.56. Public records requests for body camera videos may be directed to the City Clerk's Office or the Edmonds Police Department and will be processed by the public disclosure specialist serving on the FIU. Employees on the recording shall be provided notice of any pending public records request.
- Prior to release, videos from body-worn or patrol vehicle cameras shall be reviewed and may be redacted. Public disclosure and redactions of certain body camera and patrol vehicle footage will be pursuant to and consistent with statutory exemptions under Washington law RCW Chapter 9.73 and RCW 42.56.240.
- The Chief of Police may release body camera video footage absent a public disclosure request if they determine there is significant public interest in releasing said video when the video provides information related to the apprehension/prosecution of offenders or when the video highlights positive work performed by the Edmonds Police Department. The Chief of Police shall, when able, provide advanced notice of the intended release of video footage to any employee recording the video or shown on the video. If the circumstances require immediate release, due to an emergency situation or public safety concern, the Chief shall notify the EPOA of the release at the earliest opportunity.

The public disclosure specialist may provide third-party notification to allow any person whose privacy may be impacted by the release of a body camera video in time to file a petition for injunctive relief.