



TORONTO POLICE SERVICES BOARD

BODY-WORN CAMERAS

APPROVED	November 24, 2020	Minute No: P181/20
REVIEWED (R) AND/OR AMENDED (A)		
REPORTING REQUIREMENT	Annual, as detailed below	
LEGISLATION	<i>Police Services Act</i> , R.S.O. 1990, c. P.15, as amended, s. 31(1)(c); <i>Municipal Freedom of Information and Protection of Privacy Act</i> , R.S.O. 1990, c. M.56; <i>Youth Criminal Justice Act</i> , S.C. 2002, c. 1	
TAGS	Technology, Accountability, Interaction with Public, Equipment and Uniform, Privacy, Data and Records, Community Relations, Human Rights, Professional Conduct	

Guiding Principles

The Toronto Police Services Board (the Board) is committed to providing fair, effective, efficient, equitable and accountable policing services to the members of all of our communities, in accordance with the fundamental rights guaranteed by the *Charter of Rights and Freedoms* and the *Human Rights Code* of Ontario. The Board is also committed to ensuring that the inherent worth and dignity of all individuals who come into contact with police is respected in all interactions.

By recording interactions with members of the public, body-worn cameras have been advanced as one way to increase transparency, enhance accountability for rights protections and situations in which force is used during an interaction with police, and improve law enforcement practices by identifying where a need may exist for additional training, supervision or discipline. Body-worn cameras will also enable the timely and fair investigation of any allegations of misconduct by Service Members, and a quick resolution of complaints.

In addition, body-worn cameras are an effective tool for gathering evidence and providing a more accurate record of events, thus improving the work of the criminal justice system as a whole.

Purpose of Policy

It is the purpose of this Policy to authorize the Service to deploy and use body-worn cameras and to ensure that their use by the Service occurs in such a way as to ensure the following public interests are served:

- Improving the transparency of the Service with regards to allegations of discreditable conduct, improper conduct, misconduct, biased service delivery and excessive or improper use of force by Service Members;
- Ensuring the accountability of the Service and Service Members through internal and public oversight systems;
- Protecting individuals' right to privacy by limiting access to recordings from body-worn cameras to the greatest extent possible and to as limited a number of people as possible;
- Ensuring individuals have access to personal information pertaining to them which is collected by the body-worn cameras;
- Enhancing public trust and police legitimacy;
- Enhancing public and police officer safety;
- Enhancing the Service's commitment to anti-racist, bias-free service delivery;
- Providing improved evidence for investigative, judicial and oversight purposes;
- Ensuring timely and fair response to misconduct allegations against Service Members, in a manner that enhances public and Member confidence in the Service's complaint process; and
- Providing information as to the effectiveness of Service procedures and training.

Risks and Mitigation

The Board acknowledges that the use of body-worn cameras is not without its own challenges. There are important concerns surrounding privacy, particularly where what could be perceived as surveillance of vulnerable people and racialized communities is concerned, or in sensitive situations such as domestic violence calls.

The Board recognizes the important constitutional principle: that individuals have a justified expectation of privacy as they go about their daily business, even within public spaces, and this expectation must be respected subject to reasonable limits.

In addition, the manner in which body-worn camera use is implemented and governed could have a substantial impact on their effectiveness as it relates to cases of excessive use of force or other matters that may engage the police oversight system. Similarly, access to recordings must also be strictly governed, both to prevent breach of privacy by both internal and external actors, and to ensure that all recordings are preserved in their full, unedited form on the system, throughout their retention period. Finally, the transparency of the implementation of this Policy by the Service, including public access to information on its effectiveness in achieving the Policy's goals, is a critical element of building the public trust necessary for the achievement of the Policy's purposes and goals.

The Board will monitor the Service's implementation of this Policy to mitigate these risks, including the provision of robust training to Service Members to ensure the effective deployment of this tool. The Board will also continue to monitor best practices and recommendations made by relevant stakeholders to identify possible revisions to this Policy, where appropriate. The Board will also continue to work with the Service and a broad range of stakeholders to identify other opportunities and strategies to achieve the crucial goals of delivering professional policing in a manner that respects individuals' dignity, privacy, worth and human rights.

Policy of the Board

It is, therefore, the policy of the Toronto Police Services Board that the Chief of Police, in consultation with the Information and Privacy Commissioner of Ontario and other relevant stakeholders, will develop Procedure(s) that:

General

1. Implement the recommendations set out in the Office of the Privacy Commissioner of Canada's *Guidance for the Use of Body-Worn Cameras by Law Enforcement Authorities* (2015), and ensure that new recommendations and best practices continue to be monitored and implemented as they are identified by the relevant provincial and federal authorities;
2. Specifically identify the legislative authority for the collection of personal information that will be captured by the body-worn cameras and ensure that any such collection aligns with that authority and all other relevant legislation, including any legislative provisions addressing data, information or records storage, access, use and/or disclosure;
3. Ensure that all use of body-worn cameras and their recordings is consistent with the *Ontario Human Rights Code* and the *Charter of Rights and Freedoms*.

When and How to Use Body-Worn Cameras

4. Identify the uniform front-line Service Members who must wear body-worn cameras that are capable of reliably recording video and audio of the Service Member's contact with the public, and that can clearly indicate to individuals who are part of that interaction that the camera is active and recording;
5. Specify when a body-worn camera must be activated, so that Service Members will activate their body-worn camera *prior* to the beginning of all direct interactions with the public that are undertaken in whole or in part to further a valid law enforcement purpose, unless an unexpected and immediate threat to the life or safety of the Service Member or of a member of the public makes it impossible or dangerous to activate the body-worn camera prior to that interaction, in which case the Service

Member is required to activate the body-worn camera at the earliest opportunity thereafter;

6. Establish that body-worn cameras may only be used for the purpose of recording direct interactions between Service Members and members of the public, and may not be used for surveillance of members of the public or Service Members, or to covertly record the activities of a member of the public, except with judicial authorization;
7. Establish that Service Members may not deactivate the body-worn camera until all direct interaction with the public has ended, except for specific circumstances which are clearly defined in this Policy and the Service's Procedure, and are as limited as possible, and where such exceptions serve to protect the dignity of members of the public, in which cases the Service Member must record the specific reason for deactivation;
8. Establish that Service Members may not intentionally prevent the body-worn camera from capturing video or audio during an interaction with a member of the public in accordance with section 5 (e.g., by obstructing the lens or microphone or by repositioning the camera so as to prevent it from capturing the interaction), with the sole exception of temporarily covering the lens with their hand to protect the dignity of an individual during situations of a sensitive nature (e.g., when encountering a person in a state of undress), and then, only for the shortest time possible, while taking steps to protect the dignity of the individual, and provided that the Member is not in a situation where they might use force while the lens is covered;
9. Establish that Service Members must inform members of the public that they are being recorded at the earliest opportunity during an interaction;
10. Establish, notwithstanding sections 5 and 7 above:
 - a. Conditions under which Service Members, *prior* to entering a private residence or a private place (defined as a place to which the public does not have lawful access and where one may reasonably expect to be safe from uninvited intrusion or surveillance, including, for example, places of worship and lawyers' offices) must inform occupants that they are being recorded in both video and audio and inquire whether these individuals request that the body-worn camera be deactivated;
 - b. Conditions under which Service Members may deactivate their body-worn cameras before the conclusion of an incident for the purpose of protecting law enforcement strategies, provided that:
 - i. the Service Members are not interacting with members of the public or are in the vicinity of members of the public while the body-worn camera is deactivated;

- ii. the body-worn camera is reactivated at the earliest opportunity and prior to any interaction with a member of the public; and
 - iii. the reason for the deactivation is recorded in accordance with a designated process;
 - c. Conditions under which Service Members who are attending an Indigenous event in a public place, which includes a spiritual ceremony, must deactivate their body-worn cameras for the duration of the ceremony, and reactivate them immediately at the conclusion thereof, if required to do so in accordance with this Policy;
 - d. Conditions under which Service Members who are attending at a healthcare facility must deactivate their body-worn cameras; and
 - e. That body-worn cameras will not be activated in places or circumstances where recording is prohibited by law, except under exigent conditions or with lawful authority;
11. Establish with regards to the body-worn camera's 'stealth mode' (i.e., a mode wherein the body-worn camera is recording without providing visible and audible signals) that:
- a. The 'stealth mode' will only be used in situations where activating the camera in its normal mode may endanger the safety of a Service Member, and only for the duration necessary for this purpose;
 - b. If a body-worn camera was set to 'stealth mode' prior to an interaction with a member of the public to protect the safety of a Service Member(s), and the Service Member subsequently engages with a member of the public, the Service Member must inform that individual or individuals as soon as reasonably possible that the body-worn camera is activated, and turn off the 'stealth mode' as soon as possible.
12. Establish that Service Members must upload all recordings from the body-worn camera at the end of their shift, and that supervisors must ensure that all recordings from body-worn cameras used by Service Members under their supervision have been uploaded.

Controls

13. Establish that if a Service Member has not recorded in full or in part an interaction with a member of the public, the Service Member must document the specific reason that a recording was not made in part or in full using a designated process, which process must include a review by a Member designated by the Chief of Police;

14. Establish training requirements for Service Members to fulfill prior to being issued a body-worn camera, and subsequent on-going training requirements, so as to ensure that Service Members are able to comply in full with this Policy;
15. Establish a framework for reviewing of recordings by supervisors on a regular basis to:
 - a. Ensure compliance with Procedures;
 - b. Identify and address evidence of explicit or implicit bias and discrimination; and
 - c. Determine the need for additional training or other measures;
16. Establish the framework for discipline of Service Members who fail to comply with this Policy or the Procedure(s), and in particular, where Service Members have failed to comply with the requirements as set out in sections 4–13;

Transparency

17. Require that up-to-date information be posted on the Service's public website concerning the collection of body-worn camera recordings, including a current copy of the Service's Body-Worn Camera Procedure, how individuals can complain about the use or lack of use of body-worn cameras, what information is being collected, the length of applicable retention periods, how individuals can make requests for viewing or releasing to the public such recordings, information about how to appeal to the Information and Privacy Commissioner of Ontario where a request is denied in whole or in part, and a copy of the most recent annual report to the Board;

Secure Retention and Disposal of Recordings

18. In consultation with the Information and Privacy Commissioner of Ontario, and in accordance with all applicable legislation, establish and ensure that recordings from body-worn cameras, including any meta-data produced by the body-worn cameras or the technology supporting the Service's body-worn cameras, will be:
 - a. Stored on a secure Canadian storage server in accordance with all applicable provincial and federal legislation and security best practices, so as to prevent any editing, tampering and unauthorized access to recordings and meta-data;
 - b. Encrypted within the camera, during transit to the storage server, and while in storage; and
 - c. Destroyed at the end of their retention period in a secure manner which prevents recovery and unauthorized access to the recordings and meta-data;

19. Establish, in consultation with the Information and Privacy Commissioner of Ontario and the Ministry of the Attorney General, and in accordance with all applicable legislation, the minimum retention period for recordings from body-worn cameras, and conditions for extensions of the retention period;
20. Establish actions to be taken by the Service in the case of a potential or actual access breach of the Service's recording and meta-data storage services, including breach mitigation and control steps, and the steps required to notify the public and impacted individuals of the potential breach;
21. Establish that the Information and Privacy Commissioner of Ontario must be notified as soon as reasonably possible of significant privacy breaches, to be determined through consideration of all the relevant circumstances, including whether:
 - a. The personal information at issue is sensitive, either by its nature or given its context;
 - b. The breach is likely to cause significant harm, including financial, reputational, or emotional harm, such as embarrassment or humiliation;
 - c. The breach involves the personal information of a large number of individuals;
 - d. The likelihood that the personal information at issue could be misused, or further disseminated by others; or,
 - e. The Service is having difficulties containing the breach.

Limited Use and Access to Body-Worn Camera Recordings

22. Establish the conditions under which specified individuals may view or receive copies of recordings from body-worn cameras, ensuring that:
 - a. Service Members who wore the body-worn camera which captured a recording may access the recording and make additions to their notes based on the review of the recordings, which must be clearly marked as such, once they have completed any required initial reports, statements and interviews regarding the recorded events;
 - b. Access to recordings by other Service Members is limited only to those with a specified role in relation to the recording which justifies and necessitates such access, including, but not limited to, investigation, supervision, legal proceedings, training development, reporting, and auditing, and will be granted only when circumstances require such access;
 - c. Access to recordings is provided in a timely manner to members of bodies responsible for independent oversight of police (e.g. the Ontario

Independent Police Review Director and the Special Investigations Unit) who are conducting an investigation and who have grounds to believe the recording includes evidentiary materials;

- d. Access to recordings is provided in a timely manner to individuals who have lawful authority to obtain such access;
23. Establish that Service Members who obtain copies of body-worn camera recordings in accordance with section 22 above may not further disclose these recordings to other parties without lawful authority;
24. Establish the documentation required to obtain access to a recording from body-worn cameras in accordance with section 22, which must include, at a minimum, the identity of the requestor, the reason for the request for access, and the authority under which the demand for access is being made;
25. Establish that an audit trail will be created and maintained by the Service, that will identify with respect to every recording, the time of access, whether a copy was provided to the requestor, and any information gathered in accordance with section 24, and that this audit trail will be kept indefinitely, regardless of the retention period of its associated recording.
26. Establish, notwithstanding the provisions of section 22 above, additional safeguards to enhance the storage and limit the access to recordings of minors who are suspected of an offence or are witnesses to a suspected offence, in accordance with the *Youth Criminal Justice Act*;
27. Establish that a member of the public may request to view recordings from a body-worn camera or that the recordings and/or their meta-data be released to the requestor;
28. Establish that requests from members of the public for body-worn camera recordings, in accordance with section 27, must be assessed in compliance with MFIPPA, and any information the Service requires in order to make this assessment may be requested in a manner consistent with the Service's Access to Information processes;
29. Establish that, notwithstanding the provisions of section 27, the Service may refuse to release to a member of the public recordings where such refusal is in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, provided that the reason for the refusal is provided to the requestor in writing;
30. Ensure that access to recordings for members of the public is granted or refused in a timely fashion;
31. Establish that recordings released to the public in accordance with sections 27 and 33 must be full and unedited, with the exception of measures such as image

blurring and voice distortion for the purpose of concealing the identities of members of the public other than the requestor; and

32. Establish that the Service may only use recordings from body-worn cameras for the purposes of training after the identities of all members of the public captured in the recordings are concealed through measures such as image blurring and voice distortion.

In addition, it is the Policy of the Board that:

33. The Chief of Police may initiate the release to the public of recordings from body-worn cameras, taking into consideration relevant factors, including what is consistent with the law and the public interest, and what is reasonable in the circumstances of the case;
34. Whenever the Chief of Police initiates the release to the public of any recordings from body-worn cameras that include images or voice recordings of members of the public:
 - a. the identities of all members of the public captured in the recordings are concealed through measures such as image blurring and voice distortion, unless the Service is required by law to release the recordings in another form; and
 - b. the Chief of Police will include, along with the release, a justification of the public interest in releasing the recording;

Furthermore, it is the Policy of the Board that the Chief of Police will ensure that:

35. Recordings from body-worn cameras may not be used in combination with facial-recognition technology, video analytics software, voice recognition software, or to generate a searchable database of images of individuals who have interacted with Service Members, with the exception of comparing images that are directly related to an investigation to a “mug shot” database in a manner approved by the Board;
36. The Service will not use body-worn camera recordings recorded during a protest in combination with the Service’s “mug shot” database unless there are reasonable grounds to believe that an offence has been committed at the protest, and then, only for the purpose of investigating such an offence and comparing only images of the individual suspected of the offence to the images in the database;
37. The Service will conduct a Privacy Impact Assessment in consultation with the Information and Privacy Commissioner of Ontario, and bring its findings before the Board for its consideration *prior* to implementing any significant changes to the Service’s use of body-worn cameras, including when:
 - a. The Service wishes to utilize recordings from body-worn cameras in a novel manner or in combination with other software or hardware,

- b. The technology used to capture, retain, store or destroy the recordings changes beyond routine software updates issued by the supplier, including the deployment of any new or additional features; or
- c. The scope or governance of the Service's body-worn camera program changes;

Auditing and Public Reporting

It is also the Policy of the Board that the Chief of Police will:

38. Ensure that the Service conducts an annual audit:

- a. That reviews body-worn camera recordings and meta-data for:
 - i. all incidents for which a complaint under the *Police Services Act* was filed during the reporting period,
 - ii. all incidents for which an investigation was initiated by the Special Investigations Unit or the Office of the Independent Police Review Director,
 - iii. a sample of incidents for which a Use of Force form was completed during the reporting period,
 - iv. a sample of incidents during the reporting period that were initiated by a call for service
 - v. a sample of incidents during the reporting period that were not initiated by a call for service,
 - vi. all incidents wherein a body-worn camera was disabled for the purpose of protecting law enforcement strategies in accordance with section 10.b above, and
 - vii. a sample of the meta-data for incidents whose retention period has expired during the reporting period; and
- b. Which ensures that:
 - i. The recording begins prior to the beginning of the interaction with the member of the public, and if not, that a satisfactory explanation for the failure to activate the body-worn camera before the interaction began was provided in accordance with the Service's Procedure;

- ii. The subject of the recording is informed at the earliest opportunity in the interaction that the interaction is being recorded for video and audio;
 - iii. Any obstruction of the lens or gaps in the recording are justified and of reasonable duration;
 - iv. The recording ends:
 - 1. After conditions for an exception in accordance with section 7 above have been established; or
 - 2. After the interaction has ended;
 - v. All access to the recordings was justified and necessary;
 - vi. All requests for recordings from the Special Investigations Unit or the Office of the Independent Police Review Director were fulfilled in full and in a timely manner; and
 - vii. The Service is in compliance with required retention and destruction practices;
39. Advise the Board Office and file with it a new copy of the Service's Procedure governing body-worn camera use whenever a change is made to the Procedure;
40. Report no less than once every three months, by way of a report to the Board or a publicly available website, on the number of requests made by members of the public to view or release to the public recordings from body-worn cameras which were refused, if any, and a summary of the reasons for any refusals; and
41. Provide the Board with an annual report which will include:
- a. A summary of any changes to the relevant Procedure(s) made in accordance with this Policy over the reporting period;
 - b. The findings of the annual audit;
 - c. The number of requests made by members of the public to view or release to the public recordings from body-worn cameras, the number of requests that were refused, if any, and a summary of the reasons for any refusals;
 - d. The number of recordings released to the public by the Service for public interest reasons, broken down by the reason for the release;
 - e. The number of complaints received by the Service with regards to the use or failure to use of body-worn cameras, a summary of the complaints, and

a summary of the dispositions of the complaints during the reporting period;

- f. The total number of complaints received by the Service against Service Members, and the number of complaints for which there was a relevant body-worn camera recording, broken down by complaint resolution status;
- g. The number, if any, of recordings requested by the Special Investigations Unit or the Office of the Independent Police Review Director, which were not fulfilled within 30 days;
- h. The total number of recordings currently stored by the Service beyond the default retention period, broken down by the reason for the extended retention period;
- i. The total number of recordings released as part of a disclosure process in a legal proceeding;
- j. The number of reports submitted in accordance with section 13, above, documenting the reason for a failure to activate the body-worn camera prior to the beginning of an interaction with a member of the public, and the number of these incidents, if any, which were found to not be in compliance with the Procedure;
- k. The number of Service Members disciplined for lack of compliance and a summary of the disciplinary measures used;
- l. The number of requests for the identification of individuals in images from body-worn camera recordings using the Service's mug shot database, and the percentage of such requests out of the total requests for use of the database;
- m. The number of investigations of potential privacy breaches during the reporting period, the number of such incidents that were determined to constitute a breach and a summary description of these incidents, the number of times the Information and Privacy Commission was notified of a significant breach, and the number of individual impacted that were notified of a breach;
- n. The costs and/or savings associated with the deployment and use of body-worn cameras in the previous year; and,
- o. A review of whether the deployment of body-worn cameras is achieving the purposes set by this Policy, whether their use remains justified in light of these purposes, and whether their use has resulted in any unintended negative impacts, including, but not limited to:
 - i. Use of Force trends over the past five years;

- ii. Complaints trends over the past five years;
- iii. Findings from a survey of public trust in the Service; and
- iv. Findings from a consultation with impacted and marginalized communities.

It is also the Policy of the Board that:

- 42. The Board will review this Policy within one year after full deployment of the body-worn cameras by the Service, and thereafter, at least once every three years, and make any amendments it determines are appropriate, having regard to the Policy's purposes, insights gained through the Service's deployment and experience with body-worn cameras, and academic or expert research findings concerning the use of body-worn cameras by police services.