Tempe
Internal Audit

# Memorandum

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| TO: | Jeff Glover, Police Chief |
| THRU: | Bill Greene, City Auditor (X8982) |
| FROM: | Keith Smith, Sr. Auditor (X8416) |
| CC: | Andrew Ching, City Manager<br>Steven Methvin, Deputy City Manager, Chief Operating Officer<br>Rosa Inchausti, Deputy City Manager<br>Tom Duensing, Interim Deputy City Manager, Chief Fiscal Officer<br>Andre Anderson, Assistant Police Chief<br>Amanda Bunger, Records Administrator<br>Miyoung Kim, Bureau Manager |
| DATE: | February 15, 2022 |
| SUBJECT: | FINAL REPORT: Police Body Worn Cameras |

Attached is our final report on the subject audit. Copies of this report will be distributed to the mayor and council, the audit committee, and posted to the Internal Audit Office website.

Thank you and your staff for your cooperation during this project.

# Police Body Worn Camera Audit

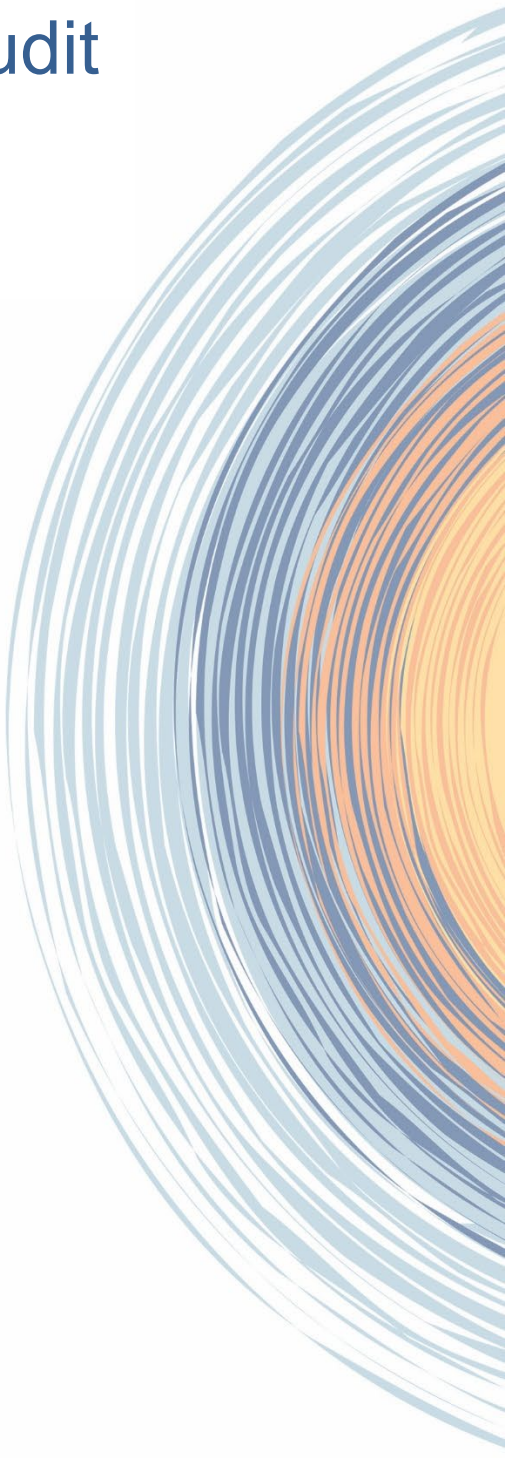
February 15, 2022


Project Team:

Bill Greene, City Auditor
Keith Smith, Sr. Auditor


Mission Statement

To enhance and protect organizational value by providing high-quality, objective, risk-based audit and consulting services to assist the City in accomplishing strategic priorities, goals, and objectives.




Tempe
Internal Audit

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# Executive Summary

## Purpose

We audited the City of Tempe Police Department's (TPD) Body Worn Camera (BWC) Program to:

1. Identify nationwide practices for police body-worn cameras and determine alignment/variances when compared to TPD policies and procedures.
2. Identify management controls and verify compliance with applicable department policies.
3. Identify potential improvements to existing policies, processes and controls.

## Background

TPD initially contracted for the purchase of BWCs in 2015 and currently uses the Axon Body 3 camera devices in its BWC program. TPD has 389 Axon Body 3 cameras (333 assigned to officers and 56 spares). BWCs are attached to officers' vests using a camera mount and each officer's camera is paired to their cell phone via an app. All camera video and other digital evidence is uploaded via encrypted connection to Evidence.com, a cloud-based system used to store digital evidence.

As of September 1, 2021, there was approximately 3.5 million pieces of digital evidence in Evidence.com (pictures, videos, documents, citizen-provided evidence) including approximately 745,000 videos. There are about 12,000 individual cases identified in the system (groups of various types of digital evidence tagged to a specific case).

TPD Operation Order 17.105 *Body Worn Camera* provides policy and guidance to officers for the BWC program.

## Results in Brief

***Overall, TPD BWC policies and practices are closely aligned with nationwide standards and other jurisdictions we surveyed. We noted an opportunity to strengthen TPD policies regarding supervisory review of BWC video to support additional quality control efforts and make policies more consistent with current guidelines.***

TPD polices regarding supervisory review of officer BWC video footage limit the department's ability to perform routine quality control procedures and monitor compliance with policy. By contrast, model policies and the BWC policies of most other jurisdictions surveyed include supervisory and/or compliance reviews of BWC videos as part of routine officer performance evaluations. BWC video review criteria and documentation requirements are also needed when revising policy to help ensure consistency of supervisory review processes.

***The BWC Training program is appropriate and reasonable and controls are in place to ensure all officers receive required training. Additional follow-up by supervisors would help confirm all officers acknowledge receipt and understanding of BWC policies in accordance with TPD operations orders.***

Police operations orders require that all officers complete training prior to the use of any BWC and that certain topics be covered in training. Our review of BWC training curriculum and interviews with TPD training staff demonstrated that training was conducted in accordance with TPD policies and included required elements such as:

- Legal implications
- Practical use issues
- Evidentiary continuity
- Technical elements
- Sensitivity issues
- Professional standards

Training attendance controls are in place and all officers hired since December 2018 have attended required training. Additional protocols would help to ensure that all officers sign-off acknowledging the receipt of the policy.

***In general, management controls we reviewed (data access and security, record retention and record release) over the BWC digital evidence system appeared adequate. Further improvements could be made in the areas of data growth management, proper categorization of BWC videos, reduction of data loss risks for non-BWC videos uploaded into Evidence.com, and record release timeliness.***

We verified Evidence.com system user profiles appeared appropriate based on job duties and controls were adequate to deactivate system access of individuals upon separation from the City or transfer from TPD.

BWC videos are automatically retained in the Evidence.com database for a duration of time tied to the classification of the video (e.g. “No Action Taken” , “Use of Force”, etc.). These automated retention schedules comply with State record retention requirements and are similar to other jurisdictions surveyed. We noted significant growth of BWC videos designated as “Uncategorized” that could benefit from additional supervisory follow-up to properly assign a category.

TPD’s procedures for release of BWC records appear reasonable, ensure appropriate redaction is completed prior to release and are similar to other jurisdictions surveyed. The release of digital evidence requires a number of actions be taken prior to release to ensure compliance with policies and legal requirements. Management should review staffing levels and process to determine if current, average public records request response times are “reasonable” given legal requirements, resource constraints, and public expectations.

***TPD’s methodology to calculate actual BWC activation rates appears reasonable and reported rates matched data presented on the City’s performance measure***

***portal. Broader distribution of individual officers' camera activation compliance rates would allow for additional targeted training and coaching opportunities.***
We reviewed the BWC activation calculation approach with staff, walked through the process and viewed the files and systems used. Based on the information provided, the calculation process appears logical and defensible. Although detailed activation results are shared with command staff, additional opportunities were identified to share officer-specific data with supervisors and training staff which should result in more targeted training opportunities and an increased compliance rate.

## Recommendations

Our detailed report includes recommendations to further strengthen controls related to the BWC program.

## Department Responses to Recommendations

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| **Rec. 1.1**: Establish a protocol with a target date for officers to review policies and sign-off and supervisory staff to follow up with those who have not done so by the deadline. | |
| ***Response*:** Will review and revise current policy. | ***Target Date*:** July 1, 2022 |
| ***Explanation, Target Date > 90 Days:*** Currently, the focus of the Professional Standards Bureau is on hiring and recruiting new police officers as well as ongoing training for existing staff. There are multiple recommendations on this audit that would fall under PSB hence additional time being requested. | |
| **Rec. 2.1**: Consider revision of BWC Operations Order 17.105 to allow for routine supervisory review of BWC video for quality control and/or employee performance evaluations. | |
| ***Response*:** Will review and discuss the recommended changes with everyone impacted. This will require more than a simple review and revision. | ***Target Date*:** September 1, 2022 |
| ***Explanation, Target Date > 90 Days:*** Currently, the focus of the Professional Standards Bureau is on hiring and recruiting new police officers as well as ongoing training for existing staff. There are multiple recommendations on this audit that would fall under PSB hence additional time being requested. | |
| **Rec. 3.1**: Include additional guidance for BWC video review criteria and documentation when revising supervisory review policies in BWC Operations Orders 17.105. | |
| ***Response*:** Will review and discuss the recommended changes with everyone impacted. This will require more than a simple review and revision. | ***Target Date*:** September 1, 2022 |
| ***Explanation, Target Date > 90 Days:*** Currently, the focus of the Professional Standards Bureau is on hiring and recruiting new police officers as well as ongoing training for existing staff. There are multiple recommendations on this audit that would fall under PSB hence additional time being requested. | |
| **Rec. 4.1**: Develop a process to require periodic review of “Uncategorized” videos and assign proper classifications within Evidence.com. | |
| ***Response*:** One of the technology projects on the schedule for 2022 is auto tagging – CAD interfacing with officers BWC to auto fill / tag some of the required fields. Depending on what fields we | ***Target Date*:** December 31, 2022 |

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| choose to auto populate, the goal is to reduce uncategorized items. | |
| ***Explanation, Target Date > 90 Days:*** There are several projects / upgrades that need to be completed first before the interface can be worked on. | |
| **Rec. 4.2**: Conduct a cost versus benefit analysis for developing and administering a digital evidence purge policy. | |
| ***Response*:** The Department will review the digital purge policy. | ***Target Date*:** September 1, 2022 |
| ***Explanation, Target Date > 90 Days:*** | |
| **Rec. 4.3**: Management determine if response times for public information requests are acceptable or adjustments in process and/or staffing levels are required to shorten turnaround times. | |
| ***Response*:** Records Bureau will compile the information / stats for the Executive Team and we will determine if any action is needed to address response times. | ***Target Date*:** May 31, 2022 |
| ***Explanation, Target Date > 90 Days:*** | |
| **Rec. 4.4**: Management explore the additional cost of storing all videos recorded with drone devices in Evidence.com versus the benefit of reducing the risks of data loss. | |
| ***Response*:** Will follow up with the Metro Bureau Commander / Drone Team and determine whether drone videos should be stored in Evidence.com. | ***Target Date*:** May 31, 2022 |
| ***Explanation, Target Date > 90 Days:*** | |
| **Rec. 5.1**: Strategic Planning Analysis and Research staff provide detailed camera compliance data to BWC Training staff performing the training sessions and collaborate on dissecting the data in a way that assists in the improvement of training curriculum and officer performance. | |
| ***Response*:** Will review with the Executive Team and develop a methodology to disseminate compliance data to training staff. | ***Target Date*:** May 31, 2022 |
| ***Explanation, Target Date > 90 Days:*** | |
| **Rec. 5.2**: Establish a formal process for sergeants to receive and use BWC activation compliance data for individual officer performance improvement. Sergeants should document how they have used the data to address compliance issues with individual officers. | |

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| ***Response*:** Will review and discuss the recommended changes with everyone impacted. This will require more than a simple review and revision. | ***Target Date*:** September 1, 2022 |
| ***Explanation, Target Date > 90 Days:*** Currently, the focus of the Professional Standards Bureau is on hiring and recruiting new police officers as well as ongoing training for existing staff. There are multiple recommendations on this audit that would fall under PSB hence additional time being requested. | |

# 1 – Training

## Background

TPD Operations Order require that all officers receive training on BWC's prior to use in the field. BWC training is typically initiated after officers graduate from the academy. Officers making lateral moves to the TPD from other jurisdictions are also required to attend BWC training sessions.

## Approach

We conducted the following tests to verify if TPD's BWC training program is reasonable and appropriate and whether adequate controls were in place to ensure all officers attended required training:

- Identified ongoing training requirements for BWC's as discussed in operations orders and other TPD policies;
- Interviewed BWC training staff to identify the type of training (including curriculum) provided and the frequency;
- Determined processes for documenting training requirements and verified that required training has been provided;
- Compared training records to staff rosters to ensure all required staff attended training and acknowledged review of BWC policies.

## Results

***The TPD BWC training program appears appropriate and reasonable and requirements are adequately addressed in policy documents.***

Policy

Police Order 17.105 details the BWC requirements. This order requires certain aspects of BWCs be covered in training:

- Officers shall complete Department training prior to the use of any BWC.
- Training should include, but is not limited to:
    - Legal implications
    - Practical use issues
    - Evidentiary continuity
    - Technical elements
    - Sensitivity issues
    - Professional standards
    - Signed acknowledgement of policy

Training Process

*Initiation of Training*

Training is normally initiated by the officers' graduation from the academy. Each officer is required to attend 3 five-hour sessions on technology (which includes BWCs). They also receive OJT with their FTOs in the field. Officer making lateral moves from other cities/agencies start with session 1.

*Conduct of Training*

BWC training staff supplied various handouts and presentation materials used in the training sessions. A review of the outlines showed that the training materials cover the required areas. Sessions are as follows:

| First Session (2 weeks post-academy) | | | | |
|---|---|---|---|---|
| 1st 5 hours for initial setup for newly issued cameras | Review Operations Order 17.105 | 2 BWC Apps (Axon View and Axon Capture) are downloaded to officer-assigned phones and reviewed | Review downloading and activation process | Quiz officers on policy (e.g. when should BWC be activated) |

| Second Session (2-3 months post-academy) | |
|---|---|
| Review officer knowledge of BWC policies | Trainers review and quiz attendees regarding specific on-the-job scenarios |

| Third Session (4 months post-academy) | | | |
|---|---|---|---|
| Training officer is in plain clothes | Verify with officers there are no equipment issues | Officers required to make their own decisions based on resources available in actual scenarios | In-depth quizzes based on actual issues that have come up over the past year |

***Adequate controls are in place to ensure all officers receive required BWC training. Additional follow-up by supervisors would help confirm all officers acknowledge receipt and understanding of BWC policies (and any updates) in compliance with operation order requirements.***

*Training Attendance Controls*

We identified the following controls in place to ensure all officers obtain required BWC training:

- Upon graduation from Police Academy or lateral transfer, BWC is a standard training element that all officers must obtain. Officers are not permitted on patrol until BWC training is initiated.
- TPD uses Power DMS (a policy, training and accreditation management software) to:
  - Send email reminders to employees when training is required
  - Notify supervisors who proactively audit for compliance
  - When an officer signs into Power DMS, a banner appears on the main dashboard if training or review of policy is required

*Training Attendance Testing*

As of December 2018, BWC training records have been maintained in the Power DMS system. To verify that all officers hired since December 2018 attended BWC training, we performed the following steps:

1. Obtained the listing from Power DMS of who attended training
2. Obtained a listing from HR of all Officers hired since December 2018
3. Compared the two lists and followed up on differences

We confirmed all officers hired since December 2018 have attended the BWC training as required.

*Policy Acknowledgement*

TPD Operations Orders require officers to sign off on BWC policies. The Training Bureau maintains records of officer signatures on the policies and the chain of command conducts spot checks of those who do not sign off as required.

Training Bureau staff provided a download from Power DMS showing which officers had signed off on the most recent version of the BWC order. Ultimately, only a small number of officers (7 of 474) had not signed off (1.47%). Of the 7 who had not signed off, 6 do not wear cameras but are still required to sign off and 1 wears a camera and hadn't signed off. Full compliance is important should there be an investigation, or external request for training records. Training Bureau staff confirmed during our audit that they would follow up on audit exceptions noted.

## Recommendations

1.1 Establish a protocol with a target date for officers to review policies and sign-off and supervisory staff to follow up with those who have not done so by the deadline.

## 2 – Policy Comparison

### Background

BWC's have been found to be a valuable law enforcement tool, but also involve complex regulations and privacy laws. A comprehensive set of written policies is needed to establish the organization's expectations for proper management and use of BWC's and the resulting digital evidence as well as provide a formal framework to support officer training.

### Approach

We conducted the following to identify nationwide practices for police body-worn cameras and determine alignment/variances when compared to TPD policies and procedures:

- Reviewed TPD BWC Operations Orders and related policies.
- Obtained and reviewed the Department of Justice (DOJ) *AZ Model Body Worn Camera Policy* and the International Association of Chiefs of Police – *Body Worn Camera Concepts and Issues Paper (April 2014)*.
- Compared key elements of TPD's BWC policies to a sample of other law enforcement agencies from various jurisdictions and model policies.

### Results

***Generally, TPD Body Worn Camera policies were similar to nationwide model policies and other jurisdictions surveyed with one primary exception: Supervisory Review. TPD polices regarding supervisory review of officer BWC video footage limit the department's ability to perform routine quality control procedures and monitor compliance with policy. By contrast, model policies and the BWC policies of most other jurisdictions surveyed include supervisory and/or compliance reviews of BWC videos as part of routine officer performance evaluations.***

We compared significant elements of TPD Operation Order 17.105 *Body Worn Camera* to model policies developed by the Department of Justice and the International Association of Chiefs of Police to identify any material differences. Additionally, we compared these same elements of TPD policies to law enforcement agency BWC policies at seven other jurisdictions. The following table shows that overall, TPD's BWC policy contains similar language and guidance to recommendations included in model BWC policies as well as law enforcement agencies from other jurisdictions surveyed. The primary exception noted related to TPD's polices governing supervisory review of officer BWC footage.

***BWC Policy Comparison***

| *Topic* | **TPD** | **IACP** | **DOJ** | **Phoenix** | **Mesa** | **Scottsdale** | **Sacramento** | **San Jose** | **Austin** | **Atlanta** |
|---|---|---|---|---|---|---|---|---|---|---|
| *Use of Equipment* | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| *Responsibilities* | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| ***Supervisory Review*** | N | ✓ | ✓ | ✓ | N | ✓ | ✓ | N | ✓ | ✓ |
| *Training* | ✓ | N | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| *Pre-Shift Inspection* | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| *Malfunctions* | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| *Advisements* | ✓ | ✓ | N | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | N |
| *When to Activate* | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| *Activation Exceptions* | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| *Recording Mgt* | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| *Record Retention* | Policies generally indicate that video retention will comply with State record retention requirements Duration of record retention differs by State/agency. | | | | | | | | | |
| *Use of Recordings* | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| *Limitations on Use* | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| *Public Record Release* | All policies generally refer to their jurisdiction's public records request/release process | | | | | | | | | |

*BWC Supervisory Review Policies*

TPD Operation Order 17.105 *Body Worn Camera* states the following regarding supervisory review:

> *2 a. Supervisors - Supervisors will ensure officers utilize the BWC system according to policy guidelines.*
>
> *f. It shall be deemed a violation of this policy for a supervisor to review recordings for the sole purpose of searching for violations of department policy or law not related to a specific complaint or incident.*

Model BWC policies and those of most other jurisdictions surveyed include the requirement for routine supervisory review of officer BWC video footage for compliance with policy or as part of regular officer performance evaluations. Following are examples of supervisory review guidance from other policies reviewed:

*Supervisory officers should ensure that officers equipped with BWCs use them in accordance with agency policy and procedures. One means of accomplishing this end is for first-line supervisors to review recordings of officers on their shift. This can be done on a random selection basis or on a systematic basis and should be performed routinely at least monthly. Recordings submitted by specific officers may need to be reviewed more often or more closely should there be indications that the officer's performance is substandard, if there have been internal or external complaints lodged against the officer, or if there is reason to believe that the officer may need additional guidance or training in certain operational areas.*

Scottsdale PD General Order 2114 *On Officer Body Camera (OBC) Program:*

*SUPERVISORS: 1. Within an officer's chain of command will log into Evidence.com at least monthly and conduct, on average, at least four random reviews of OBC recordings a month for quality control purposes.*

Sacramento PD 525.07 *Body-Worn Camera*

*Supervisors should periodically review the body worn camera audit mentioned in M(1)(a) to help determine if officers are utilizing their BWC in accordance with this policy.*

Austin GO 303 *Body Worn Camera Systems*

*4.1 SUPERVISOR RESPONSIBILITIES (a) In conjunction with personnel inspections, General Order 801.8, supervisors of units listed in 303.3(d) of this order shall conduct inspections of BWC recordings to ensure they are complying with APD General Orders. Supervisors shall ensure all assigned employees are reviewed in a fair and equitable manner. Additionally, supervisors shall ensure employees*
*1. Act professionally, treating persons fairly and impartially;*
*2. Demonstrate the appropriate knowledge, skills, and abilities to manage the interaction; and*
*3. Comply with laws, ordinances, and APD written directives.*

## Recommendations

2.1 Consider revision of BWC Operations Order 17.105 to allow for routine supervisory review of BWC video for quality control and/or employee performance evaluations.

## 3 – Supervisory Review

### Background

In a six-month period reviewed, TPD used BWC's on over 11,400 calls. The department's policies for supervisory review place the burden of ensuring compliance and timely uploading of videos on supervisors. According to policy, enforcement of the consistent and appropriate use of BWCs is a supervisory responsibility.

### Approach

To evaluate controls and compliance surrounding supervisory review over the use of BWC's, we conducted the following tests:

- Obtained TPD written policies and procedures on BWC supervisory review;
- Interviewed TPD staff to gain an understanding about how the policy is operationalized and documented;
- Tested to verify if supervisory review was conducted and documented in accordance with policy.

### Results

***TPD polices could benefit from further guidance for supervisory review of BWC videos, including review criteria and documentation requirements.***

TPD Operation Order 17.105 *Body Worn Cameras* contain the following policies regarding supervisory review of BWC videos:

> *Section 2 d. Supervisors may have the ability to immediately resolve questions/concerns or complaints by reviewing video captured by the BWC.*

> *Section E.2. Supervisors*
> *a. Supervisors will ensure officers utilize the BWC system according to policy guidelines.*
> *b. Supervisors shall ensure digital evidence is uploaded to digital evidence storage in a timely fashion.*
> *c. Supervisors responding to a citizen complaint should record the encounter and are encouraged to advise the member of the public they are recording.*
> *d. Supervisors may have the ability to immediately resolve questions/concerns or complaints by reviewing video captured by the BWC.*
> *e. In the event a formal complaint is made, the category will be changed to Administrative Investigation and notes made within that category.*
> *f.* ***It shall be deemed a violation of this policy for a supervisor to review recordings for the sole purpose of searching for violations of department policy or law not related to a specific complaint or incident****.*

*Section F18.e Digital evidence shall be viewed for administrative purposes limited to the following:*
*1) Any incident in which a member of the Department is injured or killed during the performance of their duties.*
*2) Any incident involving the use of force by a member of the Department, including canines, which results in a documentable use of force.*
*3) Any incident that results in a charge of Resisting Arrest.*
*4) Any in-custody death.*
*5) Any police pursuit.*
*6) When any member of the Department intentionally or unintentionally discharges a firearm or pulls the trigger and the firearm fails to fire.*
*7) When any member of the Department intentionally or unintentionally discharges any non-lethal device, including the application of a drive stun.*
*8) When an officer is involved in a traffic collision.*
*9) Prior to the release of recordings in response to a proper legal request (e.g., in response to a subpoena or other court order).*
*10) By Media Relations Unit, pursuant to a Public Records Request, prior to dissemination.*
*11) In preparation for a civil deposition or responding to an interrogatory where the incident arises from the employee's official duties.*
*12) When preparing to testify in a criminal, civil, or administrative proceeding arising from the employee's official duties.*
*13) For investigations undertaken by the Department, for the purpose of proving or disproving specific allegations of misconduct.*
*14) For administrative proceedings, when digital evidence is used by the Department for the purpose of proving or disproving allegations of misconduct, only digital evidence relevant to the investigative scope shall be viewed and retained by investigators. Information relevant to the recordings viewed and seized as evidence by investigators shall be documented as part of the chronological summary of any investigation undertaken by the Department.*

We interviewed TPD staff to gain an understanding about how supervisory reviews are conducted and documented in accordance with the above policies. According to staff, TPD follows Operations Order 03.203 *Complaints* when investigating formal employee misconduct complaints. However, Supervisors do not routinely review BWC videos to determine if officers follow policy. In fact, Section E.2.f above prohibits supervisors from reviewing video for the sole purpose of searching for violations of policy. In addition, neither Operation Order 17.105 *Body Worn Cameras* nor Operations Order 03.203 *Complaints* address:

- criteria used when performing a BWC video review; or,
- specify how the supervisory review should be documented.

According to TPD staff, recommended standard procedure is for supervisors to make a written comment in the "Notes" section within Evidence.com when reviewing BWC videos; however, this procedure is not documented in a formal, written policy.

***We were unable to determine compliance with BWC supervisory review policies because of a lack of defined protocols.***

As noted previously, we were unable to verify if supervisory review was conducted and documented in accordance with policy because of a lack of formal protocols to compare against actual practice.

| Austin Police Department GO 303 *Body Worn Camera Systems* |
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*303.4.1 SUPERVISOR RESPONSIBILITIES*

*(a) In conjunction with personnel inspections, General Order 801.8, supervisors of units listed in 303.3(d) of this order shall conduct inspections of BWC recordings to ensure they are complying with APD General Orders. Supervisors shall ensure all assigned employees are reviewed in a fair and equitable manner. Additionally, supervisors shall ensure employees:*
*1. Act professionally, treating persons fairly and impartially;*
*2. Demonstrate the appropriate knowledge, skills, and abilities to manage the interaction; and*
*3. Comply with laws, ordinances, and APD written directives.*

*(b) These inspections will be electronically documented on form PD0128 and sent to the lieutenant within the chain-of-command. Each inspection will include: 1. One randomly selected recording to ensure compliance with "10-41" video check; 2. Two randomly selected recordings to ensure compliance with the "eventful video" compliance check; and 3. Two randomly selected recordings from employee-initiated calls to ensure compliance with the Racial or Bias-Based Profiling general order.*

*(c) In addition to the above inspections, supervisors shall ensure all assigned employees have categorized all videos in accordance with APD General Order 303.4.*

*(d) Supervisors shall ensure all employees assigned to them are allotted time during their regularly scheduled work week to properly categorize all BWC recordings in Evidence.com.*

*(e) Investigative unit supervisors shall ensure their assigned Detectives have properly categorized all videos in accordance with APD General Order 303.4.*

Following is an example of a policy from the Austin, TX Police Department that includes review and documentation criteria for supervisory review of BWC videos:

## Recommendations

3.1 Include additional guidance for BWC video review criteria and documentation when revising supervisory review policies in BWC Operations Orders 17.105.

## 4 – Digital Evidence System

### Background

TPD currently uses the Axon Body 3 camera devices in its BWC program. TPD has 389 Axon Body 3 cameras (333 assigned to officers and 56 spares). The City's current contract with Axon extends to October 31, 2027.

Each officer's camera is paired to their cell phone via an app. After each camera activation, the officer uses the phone app enter a category and call number associated with the video. At the end of their shift, officers place their camera into a docking station. All camera video is then uploaded via encrypted connection to Evidence.com, a cloud-based system used to store digital evidence.

As of September 1, 2021, there was approximately 3.5 million pieces of digital evidence in Evidence.com (pictures, videos, documents, citizen-provided evidence) including approximately 745,000 videos.

### Approach

We conducted audit testing in the following areas to evaluate the adequacy of select internal controls and determine compliance with TPD policies:

- Data Access and Security
    1. Obtained a download of users with access to TPD's AXON Evidence.com portal and compared to HR employment records to ensure all users are current employees and if user profiles are appropriate based on job duties.
    2. Reviewed AXON's System and Organization Controls (SOC 2) report for any significant reported deficiencies.
- Record Retention
    1. Identified TPD's video evidence record retention and purge requirements.
    2. Tested a sample of records for compliance with retention policies.
    3. Quantified associated digital evidence storage costs and documented storage growth projections and cost increases.
    4. Evaluated the contribution to storage growth by uncategorized videos.
- Record Release
    1. Reviewed procedures for release of camera video to media/courts/others outside TPD.
    2. Evaluated the system used to number and/or categorize videos for timely identification and retrieval.
    3. Reviewed records requests fulfillment timeframes
- Small Unmanned Aircraft Systems (sUAS) (Drone) Digital Video Evidence
    1. Reviewed policy (TDP Operation Order 18.204) and operations manual related to sUAS usage.
    2. Discussed sUAS operations with area management and staff to gain an understanding of the program, reviewed video storage processes and needs,

and discussed potential ways to improve controls and make the program's video storage processes more similar to the BWC program.

## Results

Data Access & Security

***Axon management asserted that it took appropriate steps to address system control deficiencies noted in its most recent SOC-2 report.***

We obtained and reviewed AXON's most recent System and Organization Controls (SOC 2) report to determine if any significant control deficiencies were reported and obtain assurances from Axon they have been subsequently addressed, if necessary. The purpose of the SOC-2 report is to conduct testing for the purpose of expressing an independent opinion on whether Axon's system of controls is sufficient to meet service commitments and system requirements.

Axon provided their most recent SOC-2 report prepared by their independent auditor (Coalfire Controls, LLC) for the period January 2020 through October 2020. The auditor issued an unqualified opinion which stated management's assertion that controls with Axon's Axon Cloud Services were effective throughout the period to provide reasonable assurance that Axon's service commitments and system requirements were achieved. The report also identified 7 controls deficiencies, mostly dealing with hiring and termination procedures that were not followed. Axon's written responses to the deficiencies were included in the report.

We followed up with Axon to ensure that the 7 deficiencies had been corrected or a plan was in place for correction. Axon management responded that five of the seven have been corrected with plans in place to correct the remaining two by the end of 2021.

***Evidence.com system user profiles appear appropriate based on job duties and controls appear adequate to deactivate system access of individuals upon separation from the City or transfer from TPD.***

We obtained a download of users with access to TPD's AXON Evidence.com portal (including employee name and user profile description) and compared them to the City's HR employment records to verify:

- all users are current employees;
- user profiles are appropriate based on job duties.

Records showed two system administrator profiles assigned. The system administrator profile is the only profile with the ability to delete evidence per the profile permissions record and these appear to be assigned to the appropriate individuals within TPD.

When comparing the Axon system user listing to a listing of current PD employees provided by HR, we noted 6 former employees still had active user profiles in Evidence.com. Subsequent follow-up with TPD staff showed that deactivation of users

within Evidence.com of employees leaving the City used to be handled by the staff performing BWC training. However, during the COVID pandemic, staffing in the BWC training area was reassigned. There was a lag before the process was changed and these 6 cases likely slipped through the cracks. Under the new process, individuals are now deactivated in RMS, the access card system, and Evidence.com at the same time when they leave which should help remediate this issue in the future.

Record Retention

***BWC videos are automatically retained in the Evidence.com database for a duration of time tied to the classification of the video (e.g. "No Action Taken" , "Use of Force"). These automated retention schedules comply with State record retention requirements and are similar to other jurisdictions surveyed.***

We identified TPD's video evidence record retention and purge requirements and reviewed law enforcement retention requirements established by the Arizona State Library, Archives, and Public Records Office. We also reviewed BWC record retention policies when surveying other jurisdictions (See Section 1).

In general, the State of Arizona establishes the minimum retention period for all law enforcement recordings at 185 days, or longer at the agency's discretion. The following table shows retention periods by BWC video category. When videos reach their retention end date, the system administrator receives a system-generated report listing all recordings that will be deleted. This provides the administrator the opportunity to review evidence prior to its deletion and make any necessary adjustments.

The following table summarizes the record retention settings for each evidence category:

| Category in Evidence.com | Retention Period in Evidence.com |
|---|---|
| Uncategorized | Until manually deleted ** |
| Administrative Investigation | Until manually deleted |
| Arrest/Booking | Until manually deleted |
| Critical Incident | Until manually deleted |
| Field Interview | Until manually deleted |
| General Offense | Until manually deleted |
| No Action Taken | 200 days |
| Pending Review | Until manually deleted |
| Privatize | Until manually deleted |
| Resisting Arrest | Until manually deleted |
| Traffic Stop | Until manually deleted |
| Training | 200 days |
| Use of Force | 765 days |
| Weapon Log – these are taser reports on how the tasers are functioning, not video | 2 years |

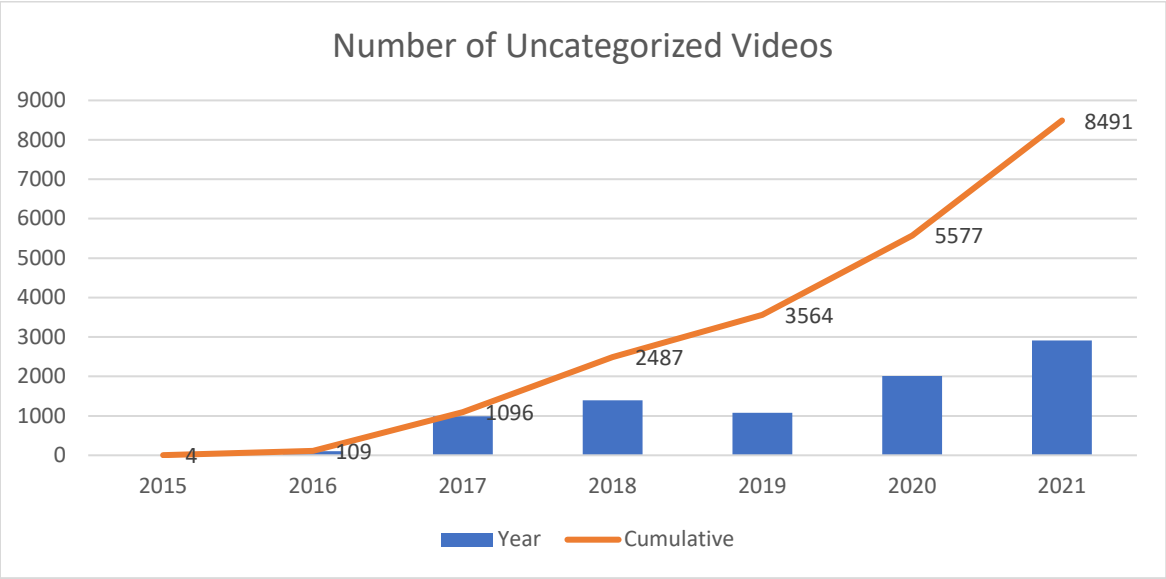
** Until manually deleted" videos remain in database until someone manually deletes the file. Only users with Administrative Access have the ability to do this (2 people at the time of the audit).

***Most BWC videos we tested were properly categorized and therefore assigned appropriate retention periods. However, videos designated as "Uncategorized" may negatively impact the accuracy of management reports from Evidence.com and potentially increase future data storage costs because they are stored indefinitely (until manually deleted). Active supervisory follow-up may help reduce the number of uncategorized videos.***

Videos need to be properly categorized to be retained for the correct time period. We tested a sample of 20 videos categorized as "No Action Taken" and 10 videos categorized as "Training" to determine if they were assigned accurately. All 20 of the "No Action Taken" videos were classified properly. Of the 10 videos classified as Training, 4 were misclassified. Three of these should have been classified as "No Action Taken". It should be noted that "No Action Taken" and "Training" have the same retention date, so the retention of the videos was not affected. The 4th video was of a parking enforcement aide having a discussion with a resident regarding a citation she was issuing. There is no category for the parking aides to use in the listing in Evidence.com.

During our review of BWC video classifications, we noted a large number of videos designated as "Uncategorized." According to TPD staff, the BWC system assigns a default designation of "Uncategorized" if officers don't assign a specific category to the recordings after uploading them to Evidence.com. Recordings with this designation are stored indefinitely, even if they ultimately have no evidentiary value.

There is currently no active monitoring of uncategorized videos and the number of uncategorized pieces of digital evidence has steadily increased since 2015. The following table shows the total number of uncategorized videos added in Evidence.com each year (a total of 8,491 as of July 2021) and the rate of growth over time.



Since the inception of the City's BWC contract with Axon, the City has paid over $4M for hosting, licensing and storage services (see following table). The contract currently allows for unlimited data storage on Axon's hosted cloud database (Evidence.com). TPD currently stores over 260 terabytes of data and the amount is growing exponentially each year. As storage demands increase, there is a risk that future agreements with Axon may eliminate unlimited data storage or increase base fees, so it is important to only retain required and needed data.

| Time Period | Description | Cost |
|---|---|---|
| 10/2015-9/2016 | Hosting/Licensing-Unlimited Storage 130 units | $123,240 |
| 3/2016-9/2016 | Hosting/Licensing-Unlimited Storage 100 units | $55,300 |
| 8/2016/9/2016 | Hosting/Licensing-Unlimited Storage 110 units | $17,380 |
| 10/2016-9/2017 | Hosting/Licensing-Unlimited Storage 340 units | $322,320 |
| 10/2017-9/2018 | Hosting/Licensing-Unlimited Storage 340 units | $322,320 |
| 10/2018-9/2019 | Hosting/Licensing-Unlimited Storage 340 units | $322,320 |
| 10/2019-9/2020 | Hosting/Licensing-Unlimited Storage 340 units | $322,320 |
| 11/2020-10/2021 | Unlimited Evidence.com bundle | $369,528 |
| 11/2021-10/2022 | Unlimited Evidence.com bundle | $369,528 |
| 11/2022-10/2023 | Unlimited Evidence.com bundle | $369,528 |
| 11/2023-10/2024 | Unlimited Evidence.com bundle | $369,528 |
| 11/2024-10/2025 | Unlimited Evidence.com bundle | $369,528 |
| 11/2025-10/2026 | Unlimited Evidence.com bundle | $369,528 |
| 11/2026-10/2027 | Unlimited Evidence.com bundle | $369,528 |
| **TOTAL** | | **$4,071,896** |

Videos categorized and stored as "uncategorized" could also affect the accuracy of management reporting by reducing the number of videos that should be classified elsewhere.

***Lack of a digital evidence purge policy may contribute to the increase in data and storage requirements because of the potential to indefinitely retain videos with no evidentiary value.***

A systematic process to dispose of (purge) physical property from the Property Facility is an important property and evidence management function. It's widely recommended that law enforcement agencies have a systematic review process assuring that each item of property and evidence is evaluated for possible purging on an annual basis. The purge process is important for keeping the inventory of a property room at a manageable level.

Likewise, a digital evidence purge policy may help reduce the exponential growth of digital evidence and storage required for evidence stored until manually deleted that has no evidentiary value. Currently, TPD has no digital evidence purge policy that requires routine review of BWC footage with indefinite storage limits to determine if they can be purged from the Evidence.com database.

As of September 1, 2021, there was approximately 3.5 million pieces of digital evidence in Evidence.com (pictures, videos, documents, citizen-provided evidence) including approximately 745,000 videos.

Record Release

***TPD's procedures for release of BWC records appear reasonable, ensure appropriate redaction is completed prior to release and are similar to other jurisdictions surveyed.***

We reviewed TPD's procedures for release of camera video to media/courts/others outside TPD. These include:

- TPD Order 15.103 – *Access and Release of Information*
- TPD Order 17.105 – *Body Worn Camera*
- TPD Records Section Website
- Request for Public Records Form
- Records Copy Fee Schedule
- *Standard Redaction Guideline* (Revised June 2020)

We also reviewed policies from other jurisdiction for comparison (See Section 1). Although procedures varied slightly, they all pointed to a standard, written public records request process.

According to TPD Order 17.105,

> *20. Copying and Releasing Digital Evidence:*
> *Digital evidence captured by BWC shall be treated as official records and handled pursuant to existing Department policies and procedures.*

According to TPD's Records Section website, those requesting release of BWC videos must complete a public records request form and pay a fee according to a fee schedule ($10/per disk). Both the forms and fee schedule make it clear the video will be redacted. According to policies and procedures, video redaction is generally made of PII related to officers, witness and victims, nudity, graphic scenes, undercover info (identity/license plates), bystander and witness images. The procedures reference various legal citations (Arizona Constitution, Arizona Revised Statutes, court cases) that require the redaction of specific elements.

***Audit testing confirmed that BWC videos could be readily accessed and retrieved if requested for public release.***

We conducted interviews and testing to determine if TPD had a system to categorize videos for timely identification and retrieval, if requested. According to TPD staff, videos

are indexed in the system by the CAD Call Number (which is usually the police report number/GO number). Videos can be accessed and retrieved if the officer enters the correct GO number into Evidence.com when tagging the video.

We obtained a listing from the TPD system of all CAD calls for a six-month period of February 1, 2021 to August 2, 2021 (11,477 records). We randomly selected 20 records from this list verify if we could retrieve the related BWC video from the Evidence.com system using the CAD call number. All 20 videos were accessed and retrieved from the system without exception.

***The release of digital evidence requires a number of actions be taken prior to release to ensure compliance with policies and legal requirements. Management should determine if current, average public records request response times are "reasonable" given legal requirements, resource constraints, and public expectations.***

ARS 39-121.01.D.1 states that the custodian of public records "shall promptly furnish" such records when requested. According to the *Arizona Agency Handbook* published by the Attorney General,

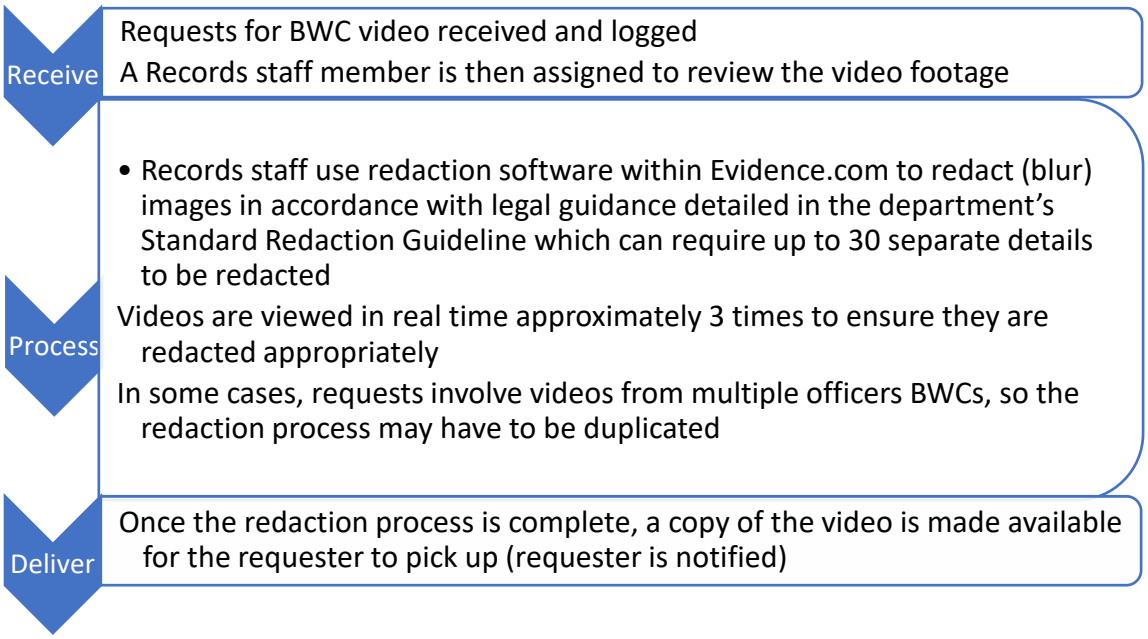
> *The governmental entity has the burden in proving that its response to records request was prompt in light of the circumstances surrounding each request. Id. at 538-39, ¶ 15, 177 P.3d at 280-81. Promptness must in all cases be a factual determination, depending upon the accessibility and volume of the material. If the information requested is on microfilm and thus requires use of a reader/printer to view it, the time for inspection would depend upon the availability of the necessary equipment. If the requested material has been stored off the premises of the agency, additional time might be necessary to retrieve the document requested. Should this occur, the requesting party should be advised, in writing, of the delay and the reason for it. Similarly, if the requested material contains confidential information that must be redacted, the custodian should inform the requesting party that the response will be delayed and the reason for the delay. See Judicial Watch, Inc. v. City of Phoenix, 228 Ariz. 393, 398, 267 P.3d 1185, 1190 (App. 2011) (noting that because "[t]he promptness of a production of public records for inspection varies with the circumstances," the government "can expend time reasonably necessary to make redactions").*

In March 2021, the Tempe Public Safety Advisory Task Force issued several strategic recommendations. Under the Police Model and Accountability Pillar of these recommendations, section 6.d states "*Provide families access to body worn camera footage and reports immediately, but no later than 48 hours, after officer involved shootings*." The feasibility of implementing this recommendation is unclear given the extensive process needed to prepare video footage for release (see below). Staff indicated that BWC videos related to use of force incidents are often prepared for release without waiting on a public records request. However, operational or legal considerations may delay the release.

We interviewed TPD staff to gain information about staff and processes associated with the public release of digital evidence. We also reviewed record request logs to calculate the average length of time taken to fulfill requests.

TPD has 2 Records Section staff members that can redact BWC video to fulfill public records requests (Redaction profiles are established in Evidence.com).

Before digital evidence can be released, a series of steps must be executed by TPD Records Division staff:



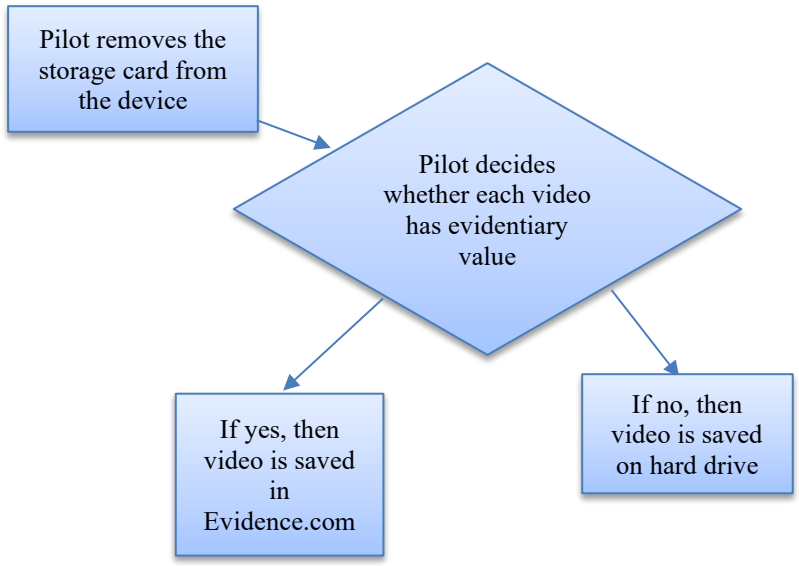

TPD provided a log of digital records requests for audio and BWC video evidence for calendar year 2020. We compared the date in the request received column with the completed column to calculate the elapsed days for each request. Our review of the TPD public request log showed that the average number of days to complete a public records request of digital records was 32 calendar days. (See following table)

| | |
|---|---|
| Number of Requests | 543 |
| Number of Requests with Completed Received and Completed Date Columns | 528 |
| Average days to Complete a Request | 32 |

Small Unmanned Aircraft Systems (Drone) Digital Evidence Storage

***Current drone video storage processes rely on officer judgement as to the evidentiary value of the video recording and a manual download protocol which introduce avoidable risks of data loss.***

TDP uses cameras mounted on drones to capture video for certain public safety purposes (e.g., technical rescues, hazardous material events, fire suppression and scene analysis, flooding, mass casualty events, search and rescue, missing children/adults, forensic traffic accident reconstruction, crime scene documentation, major event security, and SWAT/tactical situations). Each drone flight is logged by the pilot and includes information such as date/time, location, reason for deployment, and case/incident resolution. At the end of the shift, the following process is used to save and store drone videos:




There are significant differences in the controls over videos downloaded in Evidence.com vs. a standard hard drive device:

- Videos stored in Evidence.com cannot be deleted by officers;
- A copy of the original BWC video footage is saved anytime a recording is edited or redacted;
- Evidence.com maintains an audit trail of any access or change to videos. No audit trail is maintained for Drone videos and recordings can be edited or redacted from the storage card or hard drive without the original recording be maintained intact;
- When videos are transferred from the drone storage card to a hard drive, there is a risk of deletion (accidental or intentional) without detection or loss of data because of damage to the card.

An advantage of the hard drive is the low cost (less than $100 for a 1 terabyte device). TPD has secured the hard drive in a storage area where only drone pilots have access.

For perspective, the team has uploaded 500 drone videos into Evidence.com from 1/1/21-11/3/21 while 1,161 videos have been stored on the hard drive.

Currently, when video collected by drones is uploaded to Evidence.com, it counts as third-party data. Although the vendor is currently not charging for excess third-party data, it may in the future, prompting the need to consider strategically addressing the drone video storage issue to avoid possible rising costs.

Should all drone videos be stored in Evidence.com (regardless of their evidentiary value) either using the current drone cameras or those that can be docked and downloaded like the BWC devices are currently, better controls can be maintained over the videos. However, management must be balanced against a potential cost increase.

## Recommendations

4.1 Develop a process to require periodic review of “Uncategorized” videos and assign proper classifications within Evidence.com.

4.2 Conduct a cost versus benefit analysis for developing and administering a digital evidence purge policy.

4.3 Management determine if response times for public information requests are acceptable or adjustments in process and/or staffing levels are required to shorten turnaround times.

4.4 Management explore the additional cost of storing all videos recorded with drone devices in Evidence.com versus the benefit of reducing the risks of data loss.

## 5 – Body Worn Camera Activation Rates

## Background

TPD established a City performance measure (1.25) to, “Achieve Body Worn Camera activation compliance of 90% by 2022.”

BWC activation compliance is generally defined as officer’s BWC activation (commencement of recording) in accordance with situations as defined by TPD polices in Operations Order 17.105 *Body Worn Cameras*.

## Approach

To evaluate the accuracy and usefulness of activation rate calculations and data, we:

- Reviewed the performance measure portal on the City’s website for relevant information;
- Interviewed TPD staff who work on BWC activation rate calculations to identify:
  - How the compliance rate is calculated
  - The data used and its source
  - Controls in place to ensure the calculation is accurate
- Verified if TPD’s approach to calculating the compliance rate is logical and defensible
- Verified the calculation results match what is portrayed on the Performance Measure website.
- Determined how compliance rate data is used to improve police officer performance

## Results

***Based on our review, the methodology to calculate actual BWC activation rates appears reasonable. However, the process is complex and uses multiple software products making it difficult to replicate if key staff leave the department.***

The compliance rate reported on the performance measure portal during the audit was 74%. We met with TPD’s Strategic Planning analysis and Research manager to review the supporting data and process used to calculate the compliance rate.

The compliance formula is based on the activation requirements in the BWC policy. It is comprised of the number of unique officer arrivals on calls greater than one minute with video matches divided by the number of calls officers were sent to.

The process of calculating the compliance rate starts with reports from Evidence.com which are downloaded to Excel. SPSS (a stats package) is then used to clean the data, then Tableau is used to present the data. The performance measure data is one calendar year.

The manager performs the analysis and calculation and has most of the responsibility and knowledge related to the calculations. There are two analysts that are also somewhat familiar with the process and the protocol is documented. The data and process has reportedly been reviewed by an outside consultant who judged it as accurate but fair.

Some data is excluded from the calculation. Cancelled calls, call backs, calls less than one minute in length, detention officer/tech services cameras and some call types are eliminated (cameras not required to be on like Council meetings, undercover work, and community contacts). Staff reported that no consistent industry standard for camera compliance calculations have been found by TPD due to national variability with call types and differing policies on when cameras are required to be turned on.

IAO reviewed the calculation approach with staff, walked through the process and viewed the files and systems used. IAO also received and reviewed the documented protocol detailing the calculations. IAO also reviewed the listings and quantities of data excluded from the calculations. Based on the information provided, the calculation process appears logical and defensible. We were able to gain an understanding of the reasoning behind removing the data that is excluded. The data provided to IAO was also matched data presented on the performance measure portal.

***Although data for specific squads and officers is shared to command staff, broader distribution of individual officers' camera activation compliance rates would allow for additional targeted training and coaching opportunities.***

BWC compliance data is provided to sergeants via a Tableau dashboard which all sergeants can access. They are notified of any updates to the dashboard (twice per year). Data is also provided to individual sergeants outside of the dashboard upon request. Updates are presented to Command staff typically twice per year and the data is also available to Command Staff on the dashboard. However, there is currently no formal program in place to require sergeants (or hold them accountable) to review the camera compliance data for use in improving officer performance. There is a risk that officers with low compliance rates could continue to not perform according to the BWC order when the data is not used by the sergeants to address issues. Also, formal documented discussions with officers would yield feedback as to why there are issues with camera compliance such as unclear policies or insufficient training.

Additionally, BWC training staff stated that they have not been provided the compliance data produced for use to improve their training curriculum. The compliance data produced is very detailed and could be beneficial to the training staff to help address needed improvements in officer performance, understanding of the camera policies, and training curriculum.

## Recommendations

5.1 Strategic Planning Analysis and Research staff provide detailed camera compliance data to BWC Training staff performing the training sessions and

collaborate on dissecting the data in a way that assists in the improvement of training curriculum and officer performance.

5.2 Establish a formal process for sergeants to receive and use BWC activation compliance data for individual officer performance improvement. Sergeants should document how they have used the data to address compliance issues with individual officers.

# Scope and Methods

## Scope

We reviewed the current policies and practices related to the TPD's Body Worn Camera program.

## Methods

We used the following methods to complete this audit:

- Reviewed other cities' BWC policies in addition to industry model policies and toolkits
- Compared training requirements to records maintained
- Reviewed access and security protocol and records for the evidence storage system
- Reviewed the record release procedures, record indexing, and average record release response time
- Assessed the accuracy of the video categorization and related record retention requirements
- Evaluated policy and process for supervisory review of videos
- Reviewed the approach to calculating the camera activation rate used for the performance measure

Unless otherwise stated in the report, all sampling in this audit was conducted using a judgmental methodology to maximize efficiency based on auditor knowledge of the population being tested. As such, sample results cannot be extrapolated to the entire population and are limited to a discussion of only those items reviewed.