

Redacting Body Worn Video (BWV)

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WAPRO Spring Conference 2018

Under the PRA, releasing certain images contained in videos taken by body-worn cameras is presumed highly offensive to reasonable individuals. RCW 42.56.240(14)(a). You may redact those images unless the requestor is entitled to the image; e.g., they are the person recorded, or there is countervailing legitimate public interest; e.g., police misconduct. You may consider providing third-party notice to the subject of the image if there is evidence of a countervailing legitimate public interest.

Seek advice from Legal Counsel if you suspect there is a legitimate public interest.

The images presumed highly offensive can be roughly broken into two categories:

1. Areas where individuals have a reasonable expectation of privacy (medical, counseling, and health care facilities, the interior of the place of residence, or the identifiable location information of a community-based domestic violence program or emergency shelter); and
2. Individuals (domestic violence and sexual assault victims/witnesses, minors, individuals who are nude or engaged in sexual conduct, or a dead body).

Provisions applicable to BWV are in addition to the exemptions applicable to all records types. This can lead to anomalies. For example, a response to a request for a domestic violence incident may have three responsive records: an incident report, in car video (ICV), and BWV. If the domestic violence victim did not request non-disclosure and there was no evidence of an ongoing threat to the victim, assuming no other exemptions apply, you would disclose:

1. The incident report and ICV without redacting the victim's identity or statement; and
2. Redact the victim's identity and everything the victim says on the BWV.

You may charge redaction costs to requestors who do not fall into one of the following categories:

- Persons directly involved in the incident recorded or their attorneys;
- A person or his/her attorney who requests a recording relevant to a criminal case involving that person;
- An executive director from either the Washington state commission on African American Affairs, Asian Pacific American Affairs, Hispanic affairs;
- An attorney who represents a person regarding a potential or existing civil cause of action involving the denial of civil rights under the federal or state constitution or a violation of a U.S. D.O.J. settlement (The attorney must explain the relevancy and request relief from redaction costs).

BWV Redaction Guidelines

Image	Action	Possible Exemptions
Any areas of a medical facility, counseling, or therapeutic program office where: • A patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment; • Health care information is shared with a patient, their families, or among the care team.	Blur/redact entire screen inside the facility. Redact audio that would contain medical information.	Images in Body Worn Videos disclosure of which is presumed to be highly offensive to a reasonable person. RCW 42.56.240(14)(a)(i)(A); RCW 42.56.240(a)(i)(B) Medical and Mental Health Information Disclosure of Which Would Violate Privacy - RCW 42.56.230(3), RCW 42.56.240(1) Medical Care and Mental Health Care Records - RCW 70.02.020(1), RCW 71.05, RCW 42.56.360(2)
Information that meets the definition of protected health information for purposes of HIPAA or 70.02 RCW	Redact images and audio that would disclose health information. This may require redaction of the entire screen showing interaction with a healthcare provider. If inside an ambulance visible to the general public on the street, blur screen and redact audio of healthcare information.	Images in Body Worn Videos disclosure of which is presumed to be highly offensive to a reasonable person. RCW 42.56.240(14)(a)(i)(A); RCW 42.56.240(14)(a)(i)(B) Medical Care and Mental Health Care Records - RCW 70.02.020(1), RCW 71.05, RCW 42.56.360(2) Medical and Mental Health Information Disclosure of Which Would Violate Privacy - RCW 42.56.230(3), RCW 42.56.240(1)
The identity of or communications from a victim or witness of an incident involving domestic violence or sexual assault	Redact images of victim/witness and redact all audio from victim or witness.	Images in Body Worn Videos disclosure of which is presumed to be highly offensive to a reasonable person. RCW 42.56.240(14)(a)(vi) C/V/W requested Nondisclosure - RCW 42.56.240(2) Disclosing C/V/W identity would endanger a person's life, physical safety, or property. - RCW 42.56.240(2)

The interior of a place of residence where a person has a reasonable expectation of privacy	Redact entire screen inside any residence including a house, apartment, tent, non-public are of a college dorm, etc. Audio does not need to be redacted unless other exemption(s) apply (e.g., dv victim or witness communication)	Images in Body Worn Videos disclosure of which is presumed to be highly offensive to a reasonable person. RCW 42.56.240(14)(a)(ii) Record includes information the non-disclosure of which is essential for the protection of a person's right to privacy. (RCW 42.56.240(1) as defined by RCW 42.56.050).
Intimate images	Redact portions of images that would reveal nudity, sexual activity. Do not redact identifying details unless other exemption(s) apply.	Images in Body Worn Videos disclosure of which is presumed to be highly offensive to a reasonable person. RCW 42.56.240(14)(a)(ii) Record includes information the non-disclosure of which is essential for the protection of a person's right to privacy. (RCW 42.56.240(1) as defined by RCW 42.56.050).
A minor	Redact images of any minor identified in the incident or who could be readily identified from circumstances.	Images in Body Worn Videos disclosure of which is presumed to be highly offensive to a reasonable person. RCW 42.56.240(14)(a)(iv) Depending on minor's status other exemptions may apply: Juvenile Crime Victims and Witnesses - RCW 7.69A.030(4) Identifying Information of Juveniles - RCW 13.50.050, RCW 13.50.100(3). RCW 13.50.100(4)(a) & (b) Record includes information the non-disclosure of which is essential for the protection of a person's right to privacy. (RCW 42.56.240(1) as defined by RCW 42.56.050). Child Victim Sex Crime - RCW 10.97.130, RCW 42.56.240(5)

The body of a deceased person	Redact images of a body including partial images that would be readily identifiable by loved ones. Ask Sheila, Katie or Mary about blood and other images. No need to redact a body covered by a tarp.	Images in Body Worn Videos disclosure of which is presumed to be highly offensive to a reasonable person. RCW 42.56.240(14)(a)(v) Decedent images that show victim's fear and distress from imminent death or images of a decedent's body. - RCW 42.56.240(1)
Identifiable location information of a community-based domestic violence program or emergency shelter	Redact images that would indicate the address or other information that would reveal the location of a community-based domestic violence program (a nonprofit program or organization that provides, as its primary purpose, assistance and advocacy for domestic violence victims) or emergency shelter (a place of supportive services and safe, temporary lodging offered on a twenty-four hour, seven-day per week basis to victims of domestic violence and their children) Depending on circumstances, this may be done by screen blurring of vehicle is approaching the location and/or targeted redaction of address or other identifying features of the location.	Images in Body Worn Videos disclosure of which is presumed to be highly offensive to a reasonable person. RCW 42.56.240(14)(a)(vii) Record includes information the non-disclosure of which is essential for the protection of a person's right to privacy. (RCW 42.56.240(1) as defined by RCW 42.56.050). Disclosure of the information would endanger a person's life, physical safety, or property. (RCW 42.56.240(2)).

Mobile Data Terminal and Other Screen Images Redaction

MDT and other screen images, such as cellphones and computer screens inside a precinct, captured by BWV may contain exempt content requiring redaction. MDT screens, Department cellphones, and internal computer screens may contain CJI or other exempt content.

Image	Action	Possible Exemptions
MDT Screen	Blur entire screen if nothing of legitimate interest to public can be seen in that segment of video; e.g., activity related to the incident can be seen through car windshield. Targeted redaction of screen if content of legitimate interest to public can also be seen in that segment of video.	WACIC Information - RCW 42.56.070, 28 USC § 534, 28 CFR 20.38, RCW 43.43.710 Information Received Directly from Dept. of Licensing - RCW 46.12.635, 18 UCS § 2721, RCW 42.56.070 Record includes information non-disclosure of which is essential to effective law enforcement. (RCW 42.56.240(1)) Record includes information the non-disclosure of which is essential for the protection of a person's right to privacy. (RCW 42.56.240(1) as defined by RCW 42.56.050)
Department Computers	Blur entire screen if nothing of legitimate interest to public can be seen in that segment of video. Targeted redaction of screen if content of legitimate interest to public can also be seen in that segment of video.	WACIC Information - RCW 42.56.070, 28 USC § 534, 28 CFR 20.38, RCW 43.43.710 Information Received Directly from Dept. of Licensing - RCW 46.12.635, 18 UCS § 2721, RCW 42.56.070 Record includes information non-disclosure of which is essential to effective law enforcement. (RCW 42.56.240(1)) Record includes information the non-disclosure of which is essential for the protection of a person's right to privacy. (RCW 42.56.240(1) as defined by RCW 42.56.050)

Department-Issued Cell Phones	Blur entire screen if nothing of legitimate interest to public can be seen in that segment of video. Targeted redaction of screen if content of legitimate interest to public can also be seen in that segment of video.	WACIC Information - RCW 42.56.070, 28 USC § 534, 28 CFR 20.38, RCW 43.43.710 Information Received Directly from Dept. of Licensing - RCW 46.12.635, 18 UCS § 2721, RCW 42.56.070 Record includes information non-disclosure of which is essential to effective law enforcement. (RCW 42.56.240(1)) Record includes information the non-disclosure of which is essential for the protection of a person's right to privacy. (RCW 42.56.240(1) as defined by RCW 42.56.050)
Personal Cell Phones	Blur entire screen if nothing of legitimate interest to public can be seen in that segment of video. Targeted redaction of screen if content of legitimate interest to public can also be seen in that segment of video.	Record includes information the non-disclosure of which is essential for the protection of a person's right to privacy. (RCW 42.56.240(1) as defined by RCW 42.56.050)