

## BODY-WORN CAMERA (BWC) VIDEOS DISCLOSURE GUIDELINES

### 1. Crime Lab Requests

- a. **Criminal Defendants:** Disclosure will generally not be permitted in response to a request coming from a defendant or defendant's attorney during a pending criminal case when the recording(s) can be obtained through the discovery process. All efforts should be made to direct the defendant or defendant's attorney to the DA/City Attorney for discovery.
  - i. On a case by case basis and with approval by the Crime Lab Lt., Police Legal Advisor, and/or Detective assigned to the case disclosure *may* be permitted in response to a discovery request by a defendant or the defendant's attorney in a criminal case.
- b. **Victim Request:** Disclosure is permitted in response to a request by a victim when the victim has requested a copy of the case file and the video is part of that case file.
- c. **City Attorney's Request:** Disclosure is permitted when authorized by the city attorney's office in response to a subpoena for records or discovery request *in a civil case*.

### 2. CORA/CCJRA Requests

- a. **Pending Criminal Cases**
  - i. **Criminal Defendants in Pending Criminal Cases:** Disclosure will generally not be permitted in response to a CORA or CCJRA\* request when the request is coming from a defendant or defendant's attorney during a pending criminal case when the recording can be obtained through the discovery process (see #1(a) above).
  - ii. **Non-Victim/Non-Defendants in Pending Criminal Cases:** Disclosure will generally not be permitted in response to a CORA or CCJRA\* request during a pending criminal case. For disclosures to victims, see #1(b) above.
    1. On a case by case basis and with approval by the Crime Lab Lt., Police Legal Advisor, and/or Detective assigned to the case, disclosure or partial disclosure *may* be permitted in response to a CORA or CCJRA\* request by a non-victim/non-defendant in a pending criminal case.
- b. **No Pending Criminal Case**
  - i. **Persons not in video:** For requests not related to a pending criminal case, and except as stated below, disclosure will generally not be permitted in response to a CORA or CCJRA\* request from a person that is NOT a subject of the video or the victim in a case.

- ii. **People (non-victims) recorded in video:** For requests not related to a pending criminal case, disclosure may be permitted in response to a CORA or CCJRA\* request from a person who is recorded at some point in the video when the balance of interests favors disclosure. For disclosures to victims, see #1(b) above.

c. **Balancing of Privacy Interests**

- i. Disclosure may be permitted when the balance of interests favors disclosure. That balance will be determined by the Crime Lab Lt., after conferral with the city attorney's office (police legal advisor). The interests examined include:
  - 1. the privacy rights of those who would be impacted by disclosure;
  - 2. the APD's interest in keeping information confidential;
  - 3. the APD's interest in the integrity of an ongoing investigation;
  - 4. the public purpose served in allowing disclosure of the record; and
  - 5. any other pertinent considerations, including whether disclosure would be contrary to the public interest.
- ii. After balancing the interests, disclosure may be permitted in response to a CORA or CCJRA\* request when disclosure would not infringe on the interests listed above (for example, the privacy rights of another who would be impacted by disclosure).

*\*These are criminal justice records, governed by the Colo. Criminal Justice Records Act, not CORA. However, requests may come in through the City Clerk's office.*