



Republic of the Philippines  
NATIONAL PRIVACY COMMISSION

**PRIVACY POLICY OFFICE  
ADVISORY OPINION NO. 2020-001<sup>1</sup>**

29 January 2020



**Re: USE OF BODY-WORN CAMERA PURSUANT TO A PEA  
TOLLWAY CORPORATION POLICY**

Dear 

We write in response to your request for an advisory opinion which sought guidance regarding the applicability of the provisions of the Data Privacy Act of 2012<sup>2</sup> (DPA) to the Memorandum dated 5 August 2019 and Policy and Procedure for the Use of Body Worn Camera (BWC) (Policy) dated 9 July 2019, issued by the PEA Tollway Corporation (PEATC).

Specifically, you requested for clarification on the following:

1. Whether the use of body-worn cameras by the Patrol Officers, pursuant to the aforementioned Memorandum and Policy, will violate the DPA; and
2. What operating procedures should best be followed to be able to comply with the Memorandum and Policy while at the same time, also comply with the provisions of the DPA.

*Functions of PEATC*

We understand that PEATC is a wholly-owned subsidiary of the Philippine Reclamation Authority (PRA), an attached agency of the Department of Environment and Natural Resources.

Pursuant to Section 15.03 of the Toll Operations Agreement (TOA) approved by the Toll Regulatory Board (TRB), PEATC shall undertake and perform the Operations and Maintenance obligations of the PRA, specifically to manage, operate, monitor, maintain and repair the Manila-Cavite Toll Expressway Project now known as Cavitex.<sup>3</sup>

<sup>1</sup> Tags: scope, lawful processing, legal obligation, public authority, law and regulation, data privacy principles.

<sup>2</sup> AN ACT PROTECTING INDIVIDUAL PERSONAL INFORMATION IN INFORMATION AND COMMUNICATIONS SYSTEMS IN THE GOVERNMENT AND THE PRIVATE SECTOR, CREATING FOR THIS PURPOSE A NATIONAL PRIVACY COMMISSION, AND FOR OTHER PURPOSES [DATA PRIVACY ACT OF 2012], REPUBLIC ACT NO. 10173 (2012).

<sup>3</sup> PEATC official website, About PEATC, available at <http://peatc.gov.ph/about-us/about-peatc> (last accessed Jan. 30, 2020).

The agreement was entered into pursuant to the power of the TRB to grant authority to operate a toll facility and to issue therefore the necessary "Toll Operation Certificate" subject to such conditions as shall be imposed by the Board, under the Toll Operation Decree of 1977.<sup>4</sup> Under the granted authority, the PEATC is given the power to issue rules and regulations to carry out the purposes of the Toll Operation Decree<sup>5</sup> and by this authority, the subject Memorandum and Policy was issued accordingly.

The Memorandum and Policy issued by PEATC requires Patrol/Traffic Officers to use PEATC-issued BWCs when apprehending traffic violators, rendering assistance to motorists, making an arrest, engaging in confrontational encounters with the public, or any other incidents deemed necessary by the Patrol/Traffic Officer to record.

*Audio-visual recordings; lawful processing of personal data*

Personal information refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.<sup>6</sup> Accordingly, the image of an identifiable individual captured in a photograph or video is personal information about the individual, and thus, covered by the DPA.

The collection and use of audio-visual recordings captured by these BWCs may find basis under Section 12 of the DPA, specifically where the processing is necessary for compliance with a legal obligation<sup>7</sup> or to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate.<sup>8</sup>

In addition, Section 13 of the DPA may likewise apply where a BWC footage or image would reveal sensitive personal information. Thus, the processing of the same may be allowed if provided for by existing laws and regulations.<sup>9</sup>

From the foregoing, PEATC has a mandated regulatory function specifically to enforce and monitor traffic rules and regulations within Cavite. As such, the PEATC, being a public authority acting within its mandate, is permitted under the DPA to process such personal data.

We wish to reiterate that the law does not prohibit government agencies from processing personal data pursuant to their respective mandates, taking into consideration the applicable provisions of law, rules and regulations, and the general data privacy principles enunciated in the DPA. The DPA promotes fair, lawful, and secure processing of such information.

*General data privacy principles; data subjects' rights; security measures*

The principle of transparency enshrined in the DPA requires that the data subject must be aware of the nature, purpose, and extent of the processing of his or her personal data,

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<sup>4</sup> Authorizing the Establishment of Toll Facilities on Public Improvements, Creating a Board for the Regulation Thereof, and for Other Purposes [Toll Operation Decree of 1977], Presidential Decree No. 1112, § 3 (e) (1977).

<sup>5</sup> Ibid.

<sup>6</sup> Data Privacy Act of 2012, § 20 (c).

<sup>7</sup> *Id.* § 12 (c).

<sup>8</sup> *Id.* § 12 (f).

<sup>9</sup> *Id.* § 13 (b).

including the risks and safeguards involved, the identity of the personal information controller, his or her rights as a data subject and how these can be exercised.

PEATC must have the appropriate privacy notices to apprise data subjects that the traffic officers are equipped with BWCs that will capture audio-visual recordings in certain instances, i.e. apprehending traffic violators, rendering assistance to motorists, making an arrest, among others. These notices may be posted in conspicuous areas within the Cavitec and should likewise be available in PEATC's website.

We recognize the "Notification Spiel" under Sections 5.4.1 of the Policy which shall inform data subjects at the very outset of the activated BWC. The same may still be further improved, taking into consideration the exigencies of the actual operations on the ground and feedback from both the Patrol/Traffic Officers and the data subjects.

Lastly, the PEATC and its Patrol/Traffic Officers are mandated under the DPA to uphold the rights of data subjects and implement reasonable and appropriate security measures for the protection of the personal data collected against unauthorized processing. Refer to NPC Circular No. 2016-01 - Security of Personal Data in Government Agencies for further details.

This opinion is rendered based on the information you have provided. Additional information may change the context of the inquiry and the appreciation of the facts.

For your reference.

Very truly yours,

**(Sgd.) RAYMUND ENRIQUEZ LIBORO**  
Privacy Commissioner and Chairman