

Body-Worn Cameras

April 2019

The IACP Law Enforcement Policy Center creates four types of documents: Model Policies, Considerations Documents, Concepts & Issues Papers, and Need to Know one-page summaries. Typically, for each topic, either a Model Policy or a Considerations Document is created, supplemented with a Concepts & Issues Paper. This file contains the following documents:

- *Considerations Document*: Offered as an alternative to the bright-line directives found in a Model Policy. Instead of providing exact policy language, the Considerations Document outlines items that agencies should address and provides options that agencies should examine when developing their own policies on the topic.
- *Concepts & Issues Paper*: Designed to provide context and background information to support a Model Policy or Considerations Document for a deeper understanding of the topic.
- *Need to Know...*: Synthesizes the key points of the topic into a brief, one-page overview. This document is developed by Policy Center staff following the final approval of the policy and paper.

Considerations

Updated: April 2019

Body-Worn Cameras

I. PURPOSE

Body-worn cameras (BWCs) can accomplish several objectives, such as:

- Allowing for additional documentation of police-public contacts, arrests, and critical incidents;
- Serving as a means to enhance officer accountability;
- Enhancing an agency's ability to review probable cause for arrest; officer and suspect interaction; evidence for investigative and prosecutorial purposes; and to provide additional information for officer training; and
- Providing supplemental documentation of crime and accident scenes.

This document is intended to provide agencies with items for consideration when developing their policies related to when and how officers should use body-worn cameras (BWCs)¹ so that they may record their contacts with the public in accordance with legal requirements.²

II. POLICY

Agencies should develop a policy statement that guides officer use of BWCs. The goal of this statement should be able to briefly and concisely explain to agency personnel and the public the agency's policy on the use of BWCs.

Sample: It is the policy of this agency to use BWCs to effectively document law enforcement–public contacts, while taking into account legitimate individual privacy interests.

Sample: It is the intent of this agency to record all law enforcement–related contacts, and other contacts deemed appropriate.

¹ These devices may also be referred to as body-worn videos and portable audio/video recorders.

² Some states have eavesdropping statutes that require two-party consent prior to audio recording. Consult your legal advisor for state and local laws that affect your agency.

III. PROCEDURES

A. When and Where to Record

Agency policy should address the following regarding activation and use of BWCs.

1. When officers should activate their BWCs:
 - BWCs should be activated only when it is safe and practical to do so.
 - Agencies should develop an overarching philosophy for when BWCs should be activated. Potential policy considerations include activating a BWC
 - whenever an officer is interacting with
 - a member of the public.
 - when it is reasonably likely that law enforcement action will be taken.
 - during contact with a victim, witness, or suspect.
 - at the onset of any call for service or crime-related interactions with individuals.
 - Specific situations where activation should be required may include, but are not limited to:
 - arrests;
 - issuance of a summons or citation;
 - pursuits by vehicle or on foot;
 - execution of consent searches;
 - dealing with persons behaving in an erratic manner;
 - any other encounter with the public that becomes adversarial after the initial contact in a situation that would not otherwise require recording;
 - all enforcement and investigative stops including voluntary contacts and investigatory detentions;
 - motor vehicle stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops;
 - self-initiated activity in which an officer would normally notify communications personnel;
 - documentation of injury; and
 - when requested by an individual.
 - A provision should be added that, once activated, the BWC should remain on until the event that prompted the activation has concluded and/or the officer has physically left the scene.
2. Whether or not officers are required to inform individuals that they are being recorded.
 - Individuals must be informed if required by law
 - Individuals must also be informed if they specifically ask if they are being recorded.

B. When and Where Not to Record

Agency policy should outline situations where BWC recordings should not be made and procedures that should be followed if the BWC is deactivated.

1. There are specific situations where the use of BWCs is not appropriate. These may include, but are not limited to, the following:
 - During communications with other law enforcement personnel unrelated to official duties
 - Encounters with undercover officers or confidential informants
 - When on break or otherwise engaged in personal activities or nonwork-related activity
 - In restrooms, locker rooms, or other places where there is a similar expectation of privacy and there is no legal reason to be present.
 - In locations where individuals have a reasonable expectation of privacy, such as a residence, and they have declined to be recorded, unless the recording is being made pursuant to an arrest or in search of the location or the individuals
 - During a strip or body cavity search
 - When conducting tactical planning
 - In order to capture discussions between individuals with privilege, such as attorneys, members of the clergy, peer support counselors, and medical professionals
2. Agencies may elect to allow an officer to stop a recording during non-enforcement activities such as traffic control, criminal investigations, or when no adversarial events are ongoing.
3. Prior to deactivating BWCs, officers should be required to document the reason for stopping the recording on camera prior to deactivation and in a written report. This is most important when deactivating the BWC in the middle of a call for service.

C. General Considerations

1. Victims and Witnesses – Agency policy should address situations where the dignity of an individual may be compromised by the use of BWCs.
 - Agencies may wish to notify all victims and witnesses that they are being recorded, when practical.
 - Other options, where available, may include recording audio only or repositioning the BWC so as not to identify the individual.
 - If the victim or witness requests that the BWC be turned off, agencies should consider whether these requests will always be honored, or if the officer will be given the option to consider the overall circumstances before making a decision to honor the request.
2. Patient Privacy – Agency policy should address whether officers should record in situations involving patient privacy, to include hospitals, mental health treatment facilities, or other clinical settings where a crime has not been committed.
3. Juveniles
 - Some jurisdictions may have very strict guidelines regarding recording and/or releasing of video including juveniles. Agencies should consult their legal advisor.
 - Agencies should determine if there are legal restrictions on recording of juveniles without parental/guardian consent, especially when the juvenile is a victim or witness.
 - Agencies should consult with local schools to determine their policies regarding recording of juveniles on school property.

4. Crime Scenes – BWCs should not take the place of primary evidence collection and documentation procedures
5. Sensitive Locations – Guidelines should be developed regarding BWC recordings in sensitive locations, such as places of worship, domestic violence shelters, and government offices.
6. Special Circumstances – Agency policy should address the following special circumstances
 - Officer-involved shootings, to include, but not be limited to, how to handle BWC recordings of involved officer(s) and who collects recordings.
 - Crowds, to include lawful assemblies, riots, and civil disturbances.
 - Tactical situations or locations, such as incident command posts. In these situations, the incident commander or similar individual should be provided with the discretion to activate or deactivate BWCs.
 - Community policing activities where no law enforcement action is anticipated.

D. Additional Items

1. General Use
 - Officers should be allowed to use only those BWCs issued by the agency and only after they have received the appropriate training in their proper use, as outlined by law and policy.
 - To ensure the equipment is functioning properly, officers should be required to inspect and test the BWC prior to each shift and notify the appropriate agency personnel of any problems, including concerns related to battery life and depletion.
2. BWC Recordings
 - All files should be securely downloaded periodically and within a designated period of time, such as no later than the end of each shift.³ Each file should contain the date, BWC identifier, and assigned officer.
 - BWC videos should be tagged or otherwise categorized in a way that allows for the management of files.
 - The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment should be designated as the sole property of the agency
 - BWC videos should be treated as official investigative records or agency material and handled pursuant to existing agency policy and applicable laws.
 - Officers should be prohibited from editing, altering, erasing, duplicating, copying, sharing, or otherwise distributing in any manner BWC recordings without proper approval of the designated agency personnel.
 - A process should be developed for accepting and approving requests for deletion of unintentional recordings (e.g., in the event of a personal recording). For instance, agency policy may state that requests must be submitted in writing and approved by the chief executive officer or the executive's designee in accordance with applicable record retention laws. All requests and final decisions should be kept on file.
 - Viewing of recordings – Agency policy should address whether the viewing of BWC recordings is permitted by
 - Officers
 - during the investigation of a critical incident,
 - prior to writing a routine report,
 - prior to an administrative investigation, and
 - of other officers' BWC recordings.

³ The term digital media evidence (DME) may also be used to describe the digital recording of images, sounds, and associated data.

- Supervisors
 - during the review of an incident,
 - for training purposes,
 - on a routine basis,
 - for officer performance review, and
 - for complaint resolution.
- Individuals responsible for training.⁴
- Non-law enforcement individuals such as prosecutors and administrative staff.
- Storage and Retention
 - BWC recordings should be retained for a specified amount of time consistent with applicable law and other agency policies regarding data retention
 - Retention policies should consider preserving all recordings related to any criminal proceeding, claim filed, pending litigation, or administrative investigation or personnel complaint until that matter is resolved or in accordance with applicable law, or whichever is greater.
 - When considering retention schedules, agencies should also evaluate their storage capacity and determine if additional resources will be necessary.
 - Policies should outline procedures for proper video storage, management, and handling.
- Release of recordings
 - Applicable laws relating to the release of recordings to the public, such as Freedom of Information Act (FOIA) or state public records laws requests, must be addressed.
 - The process for accepting and processing requests for recordings, to include who has the authority to authorize release should be outlined.
 - Agencies should work with the prosecutor's office and other legal counsel regarding appropriate release of BWC recordings while cases are pending.
 - The level of and method for redaction of potentially sensitive information should be addressed in agency policy.
 - Information should be provided to the public, including the media, regarding the agency's policy on release of recordings.
- 3. Supervisors – Supervisory responsibilities should include ensuring policy compliance and documenting non-compliance, identifying training needs, and monitoring overall utilization of equipment.
- 4. Misconduct – Agency policy should include guidelines for documenting and managing situations where:
 - There are allegations and/or complaints of employee misconduct that may be captured on BWC recordings, including establishing limits on which BWC recordings should be viewed in these circumstances, such as only those BWC recordings directly related to the incident(s) in question and only within the scope of the investigation; or
 - If misconduct is discovered during regular or periodic review of BWC recordings, to include who should be notified upon discovery.
- 5. Agencies should ensure that they conduct regular reviews of the BWC program, to include a policy review and audit, where appropriate.

⁴ If BWC recordings are selected for use in future trainings, agencies should consider notifying the personnel captured in the video prior to use.

Every effort has been made by the IACP Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives, and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors. Readers outside of the United States should note that, while this document promotes procedures reflective of a democratic society, its legal basis follows United States Supreme Court rulings and other federal laws and statutes. Law enforcement administrators should be cautioned that each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions, and collective bargaining agreements that must be considered and should therefore consult their legal advisor before implementing any policy.

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Concepts & Issues Paper

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Body-Worn Cameras

I. INTRODUCTION

A. Purpose of Document

This paper is designed to accompany the Considerations Document on Body-Worn Cameras published by the IACP Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide a greater understanding of the recommendations and guidance provided in the Considerations Document. This material may be of value to law enforcement executives in their efforts to develop their own policies that meet the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

The concept of recording police-public encounters for law enforcement use first developed with the implementation of in-car cameras. Initially, these devices were installed to document interactions with individuals suspected of driving under the influence, with the recordings providing supporting evidence needed for conviction.¹ Over time, agencies discovered that in-car cameras had numerous additional benefits, such as “increased officer safety; documentation of traffic violations, community member behavior, and other events; reduced court time and prosecutor burden; video evidence for use in internal investigations; reduced frivolous lawsuits; and increased likelihood of successful prosecution.”² All of these advantages also apply to the body-worn camera (BWC).

The introduction and subsequent broad acceptance of in-car cameras have played a significant role in proving the effectiveness and utility of recording equipment in law enforcement. However, vehicle-mounted cameras are limited in their field of vision and are not of assistance to officers on foot patrol or who are engaged in investigations or interactions beyond transmission range of their vehicles. The BWC is a convenient and relatively inexpensive means of more fully documenting contacts and interactions with members of the community, suspects, and others in a wide variety of situations. It provides officers with a reliable and compact tool to systematically and automatically record their field observations and encounters.

However, in most cases, BWCs should not be viewed as a low-cost alternative to in-car cameras, but rather a complementary technology. In-car camera systems can provide important information that is currently unavailable with BWCs. For instance, most in-car camera systems can be linked to vehicle systems and record vehicle location, speed, application of brakes; indicate activation of lights and siren; and capture other data that could be vitally important if a

¹ *The Impact of Video Evidence on Modern Policing* (Alexandria, VA: IACP, 2003), 5.

² *Ibid.*, 11.

motor vehicle crash or other unanticipated event should occur. For example, recording an officer's activity from the patrol car may include motor vehicle accidents that occur during a traffic stop that would not necessarily be seen by the BWC while the officer interacts with the motorist. Most in-car systems also provide the option of installing a secondary camera to record any activity in the back seat of the patrol car.

C. Uses of BWCs³

BWCs can be used for documentation purposes, to include interactions with victims, witnesses, and others during police-public encounters; arrests; and critical incidents. Law enforcement agencies may also find the BWC useful for officers in the favorable resolution of both administrative and criminal complaints and as a defense resource in cases of civil liability. Officers using BWCs have a clearly documented, firsthand, objective account of what was said during the incident in question. The utilization of BWC video and audio recordings at trial can provide the court with the actual statements of officers, suspects, victims, and witnesses that might not otherwise be admissible in court based upon hearsay concerns or might not get sufficient consideration if there are conflicting memories of the statements. In addition, the detailed, visual images captured by recordings at crime and incident scenes can provide investigators, prosecutors, and juries with far more detailed, accurate, and compelling evidence. This is of increased importance in documenting perishable evidence and injuries.

BWC recordings can also accurately depict a victim's state of mind and provide insight into the victim's emotions and levels of fear and stress. Any attempts of witness intimidation by suspects can be captured, in addition to the victim's reactions to such behavior.⁴

Recording arrests and the events leading up to an arrest is an excellent means of documenting the circumstances establishing probable cause for arrest. In circumstances where custodial rights related to interrogation are appropriate, use of BWCs is an effective way to demonstrate the clear and accurate reading of items such as *Miranda* and other rights related to custodial interrogation to the suspect—and an invocation or waiver of those rights by the suspect.

The availability of video and audio recordings as evidence is critically important and can be the key to successful prosecution. For example, providing a judge or jury the opportunity to see the actions and hear the words uttered by a suspect, including statements of hostility and anger, can be extremely compelling. The availability of audio- and/or video- recorded evidence may increase the ability of prosecutors to obtain guilty verdicts more easily and quickly at trial or to more effectively plea-bargain cases, avoiding lengthy trial proceedings. This can substantially reduce the amount of time an officer must spend in court, utilize prosecutorial and judicial resources more efficiently, and reduce potential suffering of victims by preventing them from having to relive the traumatic experience.

The BWC may also prove effective in helping law enforcement agencies evaluate officer performance in a more complete and fair manner. Supervisory personnel are able to review officer conduct and performance on a random or systematic basis by examining BWC recordings. This allows the supervisor to ensure that the BWC is being used in accordance with agency policy and to identify any areas in which additional officer training, guidance, commendations, or discipline may be required.

D. Potential Drawbacks of BWC Use

When developing BWC programs, law enforcement agencies must consider the potential shortcomings or obstacles associated with the technology. Many individuals assume that the BWC will capture exactly what the officer viewed at the time, eliminating any questions about what occurred during a particular incident. However, as with any technology, there are several factors that will impact BWC recordings, such as the resolution of the video, the lighting at the scene, and the fact that a camera can capture images only in two dimensions. The BWC also records only the images in the

³ Numerous research studies have been conducted on law enforcement use of BWCs. However, the conclusions of these studies are not always clear and/or consistent regarding potential benefits of BWCs. For a comprehensive review of existing BWC research, please see Cynthia Lum et al., "The Research on Body-Worn Cameras: What We Know, What We Need to Know," *Criminology and Public Policy* (forthcoming, 2019).

⁴ For more information, see *Deliberations from the IACP National Forum on Body-Worn Cameras and Violence Against Women* at <http://www.theiacp.org/portals/0/documents/pdfs/DeliberationsfromtheIACPNationalForumonBWCsandVAW.pdf>.

direction that the lens is aimed, which may or may not be where the officer's eyes are pointed at any given instance. This is especially true of BWCs worn on the chest; the camera does not capture the same perception as the officer's eye level.

E. Issuing BWCs

Some agencies issue BWCs to select officers rather than to all officers. This approach can be used as part of an effort to more closely monitor individual officers who are suspected of having difficulty in certain areas of operation. Or it may simply be that an agency cannot afford to provide cameras for all personnel. However, issuing cameras for the sole purpose of monitoring specific employees can have several negative consequences. For example, officers who know they are under close scrutiny may modify their behaviors only while the BWC is deployed. Selective use of BWCs can also be stigmatizing, since the officer's colleagues may interpret that the officer is being singled out as a potential problem. Such selective use can also be a considerable impediment to creating "buy-in" from employees regarding the use and utility of video recorders. If officers regard these devices primarily as monitors for identifying problem behavior, they may be less likely to use them for the purpose they are intended. Therefore, it is recommended that agencies using BWCs for patrol personnel provide them to all such officers for use in accordance with agency policy.

In all instances, officers who are assigned such equipment should be required to use it in accordance with agency policy unless otherwise directed or authorized by supervisory personnel.

II. PROCEDURES

A. When and Where to Record

While BWCs can be useful tools, their utility is realized only when they are recording. When developing agency policy on the use of BWCs, one of the primary considerations should be what guidance officers should be provided regarding when and where the BWC should be activated. Given that police-public interactions are, by nature, unpredictable, law enforcement agencies should develop policies that specifically address the situations where activation of BWCs may or may not be appropriate.

One option is to have the camera constantly recording; this ensures that all interactions are captured and removes the potential for an incident not being recorded because the officer did not have the opportunity to activate the BWC. This may also address allegations from the public that officers knowingly choose not to activate their cameras in an effort to hide unprofessional conduct. Other options include limiting the types of interactions that must be recorded and/or allowing officer discretion in the decision of whether to record. These options may help address storage and retention concerns.

Regardless of what an agency elects, officer safety is always paramount, so policy should ensure that officers are required to activate their BWCs only when it is safe and practical to do so.

Potential policy options include, but are not limited to, directing officers to activate their BWCs in the following situations:

- Whenever interacting with a member of the public;
- When it is reasonably likely that law enforcement action will be taken;
- When contacting a victim, witness, or suspect; and/or
- Prior to arrival to any call for service or crime-related interactions with individuals.

While the preceding list outlines situations that agencies should consider when developing their BWC policies, there are some circumstances where activation should be required. These may include, but are not limited to, when an officer is:

- Making an arrest;
- Issuing a summons or citation;

- Engaging in a foot or vehicular pursuit;
- Executing a consent search;
- Interacting with persons behaving in an erratic manner;
- Engaging in an encounter with the public that becomes adversarial;
- Conducting enforcement or investigative stops, including voluntary contacts and investigatory detentions;
- Conducting motor vehicle stops including, but not limited to, those related to traffic violations, stranded motorist assistance, and all crime interdictions stops;
- Performing self-initiated activities that would normally involve notifying communications personnel;
- Documenting injury; and
- Interacting with an individual who requests that the camera be turned on.

Once the BWC is activated, the entire incident or encounter should be recorded without interruption. The BWC should not be deactivated until the event that prompted the activation has concluded and/or the officer has physically left the scene. Officers should note in their incident, arrest, or related reports when recordings are made. However, BWC recordings should not serve as replacements for written reports. If an interruption in recording occurs, the officer should be required to document the reason in the report. If an officer feels it is necessary to stop recording within constraints of policy, the officer should verbally indicate his or her intent to stop the recording before stopping the device, and upon reactivation, state that he or she has restarted the recording. This will help avoid accusations of editing the recording after the fact.

Agency policy should also address whether or not officers are required to inform individuals that they are being recorded.⁵ As a courtesy and so as not to create the impression of trickery or subterfuge, some law enforcement agencies require their officers to inform all persons who are being recorded by BWCs. This includes all motor vehicle stops and related public contacts where official law enforcement functions are being pursued. Generally, people tend to behave differently when they know they are being recorded. However, agencies may also wish to withhold notification because it could possibly hinder an investigation or field interview. Additionally, notification would not be practical in interactions where this information could inflame an individual or create a safety issue for officers. Officers should answer truthfully if an individual asks if they are being recorded.

B. When and Where Not to Record

Agencies should also develop specific guidance related to when and where officers should not record. In general, BWCs should be used for investigative purposes or field use only. Therefore, surreptitious recording of communications with or between other officers without the explicit permission of the agency chief executive or the executive's designee should not be allowed. The purposeful activation of BWCs during personal conversations involving counseling, guidance sessions, or personnel evaluations should be prohibited unless all parties present agree to be recorded.

Agencies may also wish to limit recording of nonwork-related activity, such as when the officer is on break or otherwise engaged in personal activities. They may also elect to allow an officer to stop a recording during non-enforcement activities such as traffic control, criminal investigations, or when no adversarial events are ongoing. Officers' conversations on the radio and among each other at a scene will frequently occur. Some agencies may instruct officers to inform other officers or emergency responders arriving on a scene when their BWCs are active to help avoid recording inappropriate or immaterial statements.

In addition, this document applies only to the use of BWCs attached to an officer's person, and any use of the camera in a surreptitious manner by removing it and using it to monitor a situation remotely should be strictly controlled. Such surreptitious recording has legal implications and may be governed by wiretap laws not applicable

⁵ Note that agencies should follow applicable law that may relate to mandatory notification of individuals, such as those states with two-party consent laws.

to or addressed by this document. It is important for officers who are equipped with BWCs to have an understanding of the restrictions on surreptitious recording of persons and to make sure their use of the BWCs is consistent with the restrictions.

Additional situations where BWCs should not be activated due to safety or confidentiality concerns include, but are not limited to:

- During encounters with undercover officers or confidential informants;
- When tactical planning is being conducted;
- During a strip or body cavity search; and
- When discussions occur between individuals with privilege, such as attorneys, members of the clergy, peer support counselors, and medical professionals.

Legal Considerations. This document is intended to cover the use of BWCs in situations where a person has either a reduced or no expectation of privacy and that occurs in a place where the officer is legally entitled to be present. In the United States, whether there is a reasonable expectation of privacy in a given situation is determined using a traditional Fourth Amendment analysis involving whether the person in question exhibited “an actual or subjective expectation of privacy” in the communication and whether that expectation is “one that society is prepared to recognize as reasonable.” A reasonable expectation of privacy is not determined so much by the place in which the individual is located (e.g., a telephone booth, business office, or taxicab) but by what a person “seeks to preserve as private even in an area accessible to the public.”⁶

When an individual is in custody, whether in a patrol car, interrogation room, or lockup, for example, there is generally no reasonable expectation of privacy, unless the suspect is speaking in confidence with an attorney, clergyman, or other individual with privileged communications. Recording may occur in these settings unless officers have given the individual a sign or indication that the location is private, that their conversation is not being recorded, and/or if the individual is speaking with someone with privilege. Individuals who are in these settings, but who are not in custody may refuse to be recorded.

In a residence, there is a heightened degree and expectation of privacy. Officers should inform the resident that they are being recorded. If the resident wishes not to be recorded, this request should be documented by recording the request before the device is turned off. However, if an officer may enter a dwelling without the consent of the resident, such as when serving a warrant, or when the officer is there based on an exception to the warrant requirement, recordings should be made of the incident until its conclusion. As a general rule, if the officer must legally ask permission to enter a premise, they should also ask if the resident will allow recording.

Privacy restrictions related to BWC recordings also extend to their use in restrooms, locker rooms, and other places where there is a similar expectation of privacy. An exception is when the location is the scene of an incident.

In any of these situations, agency policy should explicitly address procedures that officers must follow when they must deactivate the camera. As previously noted, officers should be required to note the reason for stopping the recording on camera prior to deactivation and should also document this in a written report. This is especially important when officers deactivate the BWC in the middle of a call for service.

C. General Considerations

Victims and Witnesses. When developing their policies, agencies should take into account the potential impact of BWC recordings on victims and witnesses. This may include lack of privacy, inadvertent capture of privileged and confidential information, and cultural concerns regarding being recorded.⁷ These factors may result in fewer victims reporting crimes and witnesses becoming more reluctant to assist law enforcement.

⁶ *Katz v. United States*, 389 U.S. 347 (1967).

⁷ For a more detailed discussion, please see the IACP’s *Body-Worn Cameras and Violence Against Women Victim Impact: Practice & Policy Considerations*.

In addition, some victims might not act in a way that is considered “normal” or “appropriate” to individuals without an understanding of the mechanisms of trauma. Victims could experience difficulty recalling details or might not remember the events in a linear fashion. If recordings are made of these reactions and then used in court proceedings, they could be used to discredit the victim or lead a jury to believe they are lying.⁸

Agencies should take into account situations where the dignity of these individuals may be compromised by the use of BWCs. This may include notifying all victims and witnesses that they are being recorded, when practical. This notification may contain an explanation of the potential uses of the recordings and who may have access to the recordings. Agency policy should also address whether requests by victims or witnesses to stop recording should always be honored, or if the officer should be given the discretion to consider the overall circumstances before making a decision to deactivate the camera. Other options may include recording audio only or repositioning the BWC so that the individual cannot be visually identified. Agency policy should also address whether the BWC should be deactivated when officers are conducting lethality assessments or safety planning with victims, due to the sensitive, confidential nature of the conversation.

Sensitive Locations. An additional item for policy makers to address is the use of BWC in healthcare settings where patient privacy is a consideration, such as hospitals, mental health treatment facilities, and other clinical settings where a crime has not been committed. If these types of institutions have a policy outlining the use of BWCs at their locations,

officers should follow these guidelines. However, where no such policy exists, agencies should consult legal counsel when crafting their own policies, to include discussion of possible legal ramifications of using BWCs in these locations. Agencies should also consider additional restrictions on BWC use at places of worship; shelters, such as those serving domestic violence victims; and government offices.

Juveniles. Some jurisdictions have very strict guidelines regarding the recording and/or release of video that captures images of a juvenile. Therefore, agencies should consult their legal advisor when developing agency policy in this area. Agencies may also wish to consider implementing restrictions on recording of juveniles without the consent of a parent or guardian, especially in situations where the juvenile is a victim or witness. Schools should also be consulted to determine if they have any policies regarding the recording of juveniles on school property.

Crime Scenes. While BWCs may be useful for documentation purposes, such as at crime or incident scenes, they should not take the place of primary evidence collection and documentation procedures.

Additional Circumstances of Note. Agencies should also consider how their BWC policy will address the following situations:

- Officer-involved shootings, to include, but not be limited to, how BWC recordings of involved officer(s) should be handled and who should collect such recordings.⁹
- Crowds, to include lawful assemblies, riots, or civil disturbances.¹⁰
- Tactical situations or locations, such as incident command posts. In these situations, the incident commander or similar individual should be provided with the discretion to activate or deactivate BWCs.
- Community policing activities where no law enforcement action is anticipated.

D. General Use

Personnel who are authorized to use BWCs should use only equipment provided by the agency. BWC equipment should be the responsibility of individual officers and should be used with reasonable care to ensure proper functioning. Equipment malfunctions should be brought to the attention of the officer’s supervisor as soon as possible so that a

⁸ Ibid.

⁹ See the IACP Policy Center documents on Investigation of Officer-Involved Shootings and other Serious Incidents available at <https://www.theiacp.org/resources/policy-center-resource/officer-involved-shootings>.

¹⁰ See the IACP Policy Center documents on Crowd Management available at <https://www.theiacp.org/resources/policy-center-resource/crowd>.

replacement unit may be obtained. Officers should test this equipment prior to each shift in order to verify that it is functioning properly and should notify their supervisor if any problems are detected.

BWCs are not meant to serve personal uses whether on- or off-duty unless permission is granted by the agency. This is a simple matter of concern over private use of government-owned equipment in most cases, but it can also involve concerns over the potential of mixing personal recordings with those involving official law enforcement business. In the latter circumstances, the evidentiary integrity of recordings could be called into question, as could issues surrounding the chain of custody of evidence contained on devices that may have been involved in personal use. Personal use of BWC equipment and co-mingling of recordings may raise concerns about inappropriate viewing, sharing, and release of videos and associated issues of invasion of privacy and other similar types of liability. In addition, the chances of loss, destruction, or recording over materials belonging to official law enforcement investigations may be greater when these devices are used for both official and personal business.

E. BWC Recordings

The need for control and management of BWC recordings to ensure the integrity of the recordings, secure the chain of custody where information of evidentiary value is obtained, and use recordings to their fullest advantage for training and other legitimate law enforcement purposes is of paramount importance. In order to accomplish these ends, agency policy should consider several procedural controls and requirements.

For instance, all files from the BWC should be securely downloaded periodically and within a designated period of time, such as no later than the end of the shift.¹¹ In order for a recording to be admissible in court, the officer must be able to authenticate the recording as a true and accurate depiction of the events in question. In an effort to prevent the recording from becoming evidence, the defense may question the chain of custody. Therefore, agencies may wish to utilize secure downloading software or programs or have an individual other than the officer be responsible for downloading the data in an effort to minimize any chain-of-custody issues.

Each file should be tagged or otherwise categorized in a way that allows for ease of file management and should contain identifying information, such as the date, time, BWC device used, and assigned officer. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment should be designated as the sole property of the agency. Any BWC videos should be treated as official investigative records or agency material and should therefore be handled pursuant to existing agency policy and applicable laws.

The agency must maintain strict managerial control over all devices and recorded content so that it can ensure the integrity of recordings made by officers. In general, accessing, copying, or releasing files for non-criminal justice purposes should be strictly prohibited. Officers should be prohibited from editing, altering, erasing, duplicating, copying, sharing, or otherwise distributing BWC recordings in any manner without proper approval.

Inevitably, recordings will occur in circumstances where it is not appropriate. For instance, an officer may forget to stop a recording when entering a locker room. In these situations, the officer should be afforded an opportunity to request that these portions of the recording be erased. Agencies should develop guidelines for responding to requests for deletions. For instance, agencies may elect to require requests to be made in writing and submitted to the chief executive officer or the executive's designee for approval. The agency should designate an individual who is responsible for monitoring and approving these requests in accordance with applicable record retention laws. All requests should be maintained for historical reference.

Viewing of Recordings. There are several situations where BWC recordings may exist and later viewing of the recording should be addressed. Agencies should determine if officers assigned a BWC should have access, and be encouraged to review, their own recordings, in order to assess their performance and potentially correct unsafe or questionable behaviors. Policy should also outline whether officers are permitted to view BWC recordings during the investigation of a critical incident; prior to writing a routine report; and prior to an administrative investigation, as well

¹¹ The term digital media evidence (DME) may also be used to describe the digital recording of images, sounds, and associated data.

as whether they can view other officers' BWC recordings. Agency policy should also address viewing of recordings by non-law enforcement individuals such as prosecutors and administrative staff of the law enforcement agency.

In addition, agencies should consider whether supervisors should be allowed to view BWC recordings during the review of an incident, for training purposes, on a routine basis, for officer performance review, and for complaint resolution. Supervisory review of BWC recordings may be done on a random selection basis or on a systematic basis and agency policy should consider whether this is performed routinely, such as 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.

Agency policy should address viewing of recordings by individuals who are responsible for training. Agencies should document whether BWC recordings can be used for training purposes, to include approval by the appropriate chain of command and potential notification of personnel captured in the video prior to use. To further the value of BWC recordings as a training tool, agencies may encourage officers who have recorded unusual and/or operational situations or incidents that may have potential value in training to inform their supervisor so that the recordings can be evaluated. Unusual or even routine events recorded on tape can be used in basic academy and in-service training to reinforce appropriate behavior and procedures; demonstrate inappropriate practices and procedures; enhance interpersonal skills and officer safety habits; and augment the instructional routines of field training officers and supervisory personnel.

Storage and Retention. When developing a BWC program, one of the primary considerations should be the storage and retention of the videos. Agencies should anticipate the significant costs of these items when budgeting for the program, which may also play a role in developing policy on the topic, namely when an officer should be instructed to record.

Specifically related to policy, agencies should develop and outline procedures for proper video storage, management, and handling. Recordings should be maintained in a secure manner for a specified amount of time consistent with applicable law or as otherwise designated by the agency's policies on data retention. Retention schedules for recordings should take into consideration the possibility of a public complaint against an officer sometime after the encounter. Recordings in these situations can prove invaluable in resolution of the complaint. Retention policies should also consider preserving all recordings related to any criminal proceeding, claim filed, pending litigation, or administrative investigation, to include complaints, until that matter is resolved or in accordance with applicable law or policy, whichever time frame may be greater. However, storage costs can become prohibitive, so agencies must balance the need for retaining unspecified recordings with the desire to have this information available.

Release of Recordings. Agencies should develop detailed procedures for addressing how BWC recordings should be released, to whom, and in what situations. These procedures and any related agency policy must follow applicable laws, such as the Freedom of Information Act (FOIA) or state public records laws requests in the United States. This process should outline how requests are accepted and processed, to include designating who has authority to authorize release. When developing these procedures, agencies should consult with the appropriate prosecutorial entity, in addition to legal counsel, to discuss how to address release of BWC recordings while a case is pending.

Agencies should also consider the level of and method for redaction of potentially sensitive information. Some considerations for redaction may include, but are not limited to, redacting faces, personally identifiable information, medical information, and nudity. In cases where others may be reviewing video(s), preserving the dignity of individuals in the recordings should be a priority. Agencies should recognize the potential impact of release of BWC recordings on victims, to include the fact that the video may depict information of a private or sensitive nature, especially in relation to crimes such as domestic violence, sexual assault, and stalking. There is also the possibility that victims will be retraumatized by watching the video or knowing that others have access to it. Agencies should be aware of applicable law that may dictate how redaction must occur and whether local prosecutors must be involved.

As part of community outreach efforts, agencies should provide information to the public, as well as the media, regarding their policies regarding release and redaction of recordings. Agencies may wish to consider reinforcing or redistributing this information following a high-profile incident involving a BWC recording.

Supervisory Responsibilities. Supervisory personnel should ensure that officers equipped with BWCs use them in accordance with agency policy and procedures. In addition, supervisors should identify if any additional training related to the use of BWCs is necessary and monitor the overall utilization of the equipment by officers.

Misconduct. As part of the investigation of a complaint or allegation of employee misconduct, BWC recordings of the alleged incident may be reviewed. Agencies should establish policies regarding viewing of BWC recordings in these situations, which may include limiting viewing to those recordings directly related to the incident, only within the scope of the investigation, and only by authorized individuals. If a complaint is sustained and evidence of misconduct is captured on BWC recordings, agencies may wish to establish protocols for additional review of the officer's BWC recordings to determine if the incident is indicative of more widespread behavioral concerns.

A second potential scenario that involves BWC documentation of misconduct may occur when misconduct is discovered during a periodic and/or routine review of BWC recordings. A process should be created for reporting the discovery of misconduct after review of BWC recordings to the appropriate supervisor.

F. Training

Prior to using BWCs in the field, officers must be trained in their proper use and related agency policy. Officers should also be able to demonstrate an understanding of the agency's data retention policy and any laws governing the recordings. This training should occur prior to initial use and on a regular basis thereafter.

In addition to training provided to personnel, law enforcement agencies should also consider providing information regarding their BWC programs to the public and community groups. By allowing community members to participate in the discussion surrounding BWCs, agencies can hope to achieve increased support of their programs.

III. CONCLUSION

When implementing a BWC program, an agency should consider a number of items, to include policy development. Primarily, the agency must consider and make a determination on when officers will be required to activate the camera, when they should not record, and any situations where there may be opportunities for officer discretion. In addition, the policy and accompanying procedures that are formulated must also address how BWC recordings will be used internally, to include who can view the recordings and in what situations. Throughout this process, legal counsel should be consulted and feedback from the community should be incorporated. Once established, the BWC program should be reviewed and evaluated on a systematic basis, to include policy review and audit.

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Need to Know...

Updated: April 2019

Body-Worn Cameras

Body-worn cameras (BWCs) allow agencies to document police-public contacts, arrests, and critical incidents. BWCs can also be utilized for training and officer accountability. However, prior to implementing a BWC program, law enforcement agencies should develop policies and procedures governing the use of this technology.

- Agencies should develop policies that provide officers with guidance regarding when to **activate** their BWCs. This may include whenever the officer is interacting with a member of the public or during contact with a victim, witness, or suspect.
- Agencies should also identify situations where BWCs' usage is **not appropriate**, to include when an officer is interacting with undercover officers or confidential informants; in locations where there is an expectation of privacy, such as restrooms or locker rooms; and when the officer is engaged in personal activities.
- BWCs should not be **deactivated** until the event that prompted the activation has concluded and/or the officer has physically left the scene. If an officer feels it is necessary to stop recording within constraints of their agency's policy, they should verbally indicate their intent to stop the recording before stopping the device and document the reason for the deactivation in a written report.
- Agencies should consider how their policies will address BWC recordings involving **victims and witnesses**. This should include whether these individuals will be notified that they are being recorded and whether officers should honor their requests for the BWC to be turned off.
- While BWCs can be useful in **documenting evidence** at crime scenes, they should not take the place of established evidence collection procedures as defined by agency policy.
- Agencies should be aware of the **limitations** of BWCs, to include the fact that the camera will capture images only where the lens is pointed. This might not correspond to what the officer is viewing at the time if they are looking in a direction that is different than where the camera is pointed.
- **BWC files** should be downloaded periodically and within a designated amount of time. Officers should be prohibited from editing, altering, erasing, duplicating, copying, and sharing BWC recordings without proper approval.
- Prior to implementing a BWC program, agencies should consider **storage requirements**. BWC recordings should be retained for a specified amount of time that is consistent with applicable laws and agency policy regarding data retention.
- **Regular review** of BWC recordings allows supervisors to ensure that the BWC is being used in accordance with agency policy and to identify any areas in which additional officer training, guidance, or discipline may be required.



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