

**The Bill Blackwood
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Body Cameras Worn By Law Enforcement

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ABSTRACT

Law enforcement is under so much scrutiny in today's society; citizen journalists are ready to record and upload any police activity that could look controversial. In order to defend and protect their image, law enforcement agencies should equip their officers with body cameras. The body cameras will capture a real time video of the actual incident that is in question, thus provide the evidence to exonerate an officer from the false accusations of misconduct or make the agency aware if they have a problem officer. These body cameras cost money, but the cost is less than litigation for police misconduct. When a body camera is used, a majority of citizens claiming misconduct will retract their claim once the video is observed. Videos recorded from an officer's body camera can be used as evidence in a criminal case and for officer training. The body camera has provided law enforcement with a way to protect citizens from police misconduct and for officers to defend against false allegations.

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INTRODUCTION

Technology in policing is expanding constantly, and law enforcement agencies must keep up. Today, law enforcement can use the aid of social media, email, internet and cell phones in the course of an investigation. Just about everyone in today's society has a cell phone, which may also be used to film video. Thus, body cameras are beneficial to law enforcement agencies. They can aide with addressing allegations of excessive force against police officers, which is often backed by a citizen journalist's video recording. Many people receive their news from online and social media resources; video content is usually recorded and uploaded by citizen journalist (Jewkes, 2011). There are some citizen journalists who cannot wait to criticize the justice system and are far too eager to show a video to the public in attempt to damage the image of law enforcement or even to receive recognition by the media.

Before citizen journalism, in the 1980s, Mothers against Drunk Drivers (MADD) wanted to help in the prosecution of drunk drivers so they provided the funding for law enforcement agencies to mount dash cams in their patrol vehicles. Police dash cams were the answer for officer safety, and they also provided evidence against allegations of racial profiling or misconduct (Nash & Scarberry, 2014). The vehicle dash cams are no longer effective with maintaining the needs of law enforcement, at least not alone. There are too many times that incidents occur away from the patrol vehicle and the dash cam cannot capture the incident because it can only capture a view from the front of the patrol vehicle.

The article "Why police should wear body cameras – and why they shouldn't" (Lopez, 2015) describes a body camera as "small devices usually attached to the head

or upper body of a police officer, and they're used to record their day-to-day-work". Law enforcement agencies should equip officers with body cameras. The implementation of body cameras being worn by law enforcement officers can provide recordings for evidence in crimes, against allegations of police misconduct, and training purposes, because there will be recordings of incidents as they occur and where they occur.

POSITION

Law enforcement agencies using body cameras will be able to address citizen complaints of police misconduct or excessive use of force immediately and reduce the number of citizen complaints like a California town that "found their introduction reduced complaints against police by nearly 90 percent" ("Why Not," 2014, para. 2). The video can be viewed by the complainant and the department head when the complaint is made or soon after. This will give an agency the ability to thwart any negative feedback of short films that were recorded by a citizen journalist and uploaded to YouTube, Facebook, or any other type of social media. An officer's video recording of the event, using a body camera, could exonerate the officer. Officer body camera video can "when reviewed, give evidence to proper protocol, noble efforts and reality" (Scullin, 2013, para. 2). The officer involved shooting of Michael Brown, which occurred in Ferguson, Missouri, happened at a time when the citizens did not have trust in the Ferguson Police Department. There were several audio/video recordings taken by citizens that raised the eyebrows of the public, but if "Darren Wilson was outfitted with a body camera at the time of Brown's shooting, the footage would have shown what happened and whether there was any wrongdoing on Wilson's end" (Lopez, 2015, para.

The bottom line is that citizen complaints of excessive force or misconduct can result in civil litigation, but litigation could be avoided with the purchase of body cameras for police officers. A complainant, of misconduct or excessive use of force, can win a judgment or settlement if the officer does not have any proof the allegation is false. These potential lawsuits can cost a city up to millions of dollars, depending on the circumstances (Balko, 2014). The International Association of Chiefs of Police (IACP) conducted a study that “illustrates that 93% of police-misconduct cases where video was available resulted in the officer’s exoneration; 50% of complaints were immediately withdrawn when video evidence was used” (as cited in Lovell, n.d, para. 3).

Another thing concerning citizen complaints of misconduct or excessive use of force is, if a complaint does result in litigation the video can be used as powerful evidence in favor of the officer. Video is referred to as the “silent witness” and can be used as evidence in both civil and criminal cases (Ferrell, 2013, para. 4). According to the Federal Rules of Evidence under Rule 1001(2), providing that the officer’s body camera captures video that is of decent video and audio quality, it is a reliable recording and the recording has been preserved in its original state, as shown to the court, it may be submitted as evidence in a criminal case (Ferrell, 2013); this can help with obtaining a conviction.

In October 2014, Officer Jared Frazier of Albuquerque, New Mexico conducted a traffic stop and found that Deanna Griego was driving while intoxicated. During Frazier’s roadside investigation, Griego attempted to lure Frazier into committing indecent acts with her. Frazier’s non-compliance did not stop her from making claims that Frazier sexually assaulted her. The police department’s internal investigation

exonerated Frazier because the whole incident was recorded on his body camera (“Video,” 2014)

The use of body cameras by law enforcement agencies will aid in investigations concerning allegations of police misconduct or excessive force; saving the agency millions of dollars. If an allegation does result in litigation the video can be used as evidence to exonerate the officer. If there is video taken from an officer’s body camera, of the incident in question, there should be no question. When using the video from an officer’s body camera as evidence, it is important that the officer followed the body camera policy established by his agency.

White (2014) is a subject matter expert for the Bureau of Justice Assistance Smart Policing Initiative, and his publication reviews provides an overview of five empirical studies on the “implementation and impact of officer body-worn cameras” (p. 5). In 2005 and 2006, British police officers, in Plymouth, England were the first to implement and test the use of body cameras and the tests yielded positive results. Because of those positive results, in 2006, the Plymouth Head Camera Project was initiated. The project lasted 17 months and the department “purchased 50 camera systems and trained 300 officers to use the technology” (as cited in White, 2014, p. 16). The goals for the project were to reduce bureaucracy by providing optical evidence, reduce the amount of evidence challenged in court, reduce wasted officer and court time by increasing guilty pleas, reduce false citizen complaints on officers, and reduce violent crime incidents.

In 2011, the Renfrewshire/Aberdeen Studies were accomplished in Scotland. In Renfrewshire, police implemented “38 body camera systems for eight months” (as cited

in White, 2014, p. 17) and in Aberdeen, 18 camera systems were implemented for three months. The focus of these studies was the same as the goals of the Plymouth Head Camera Project.

In the United States, there have been three studies on officer worn body cameras conducted. The first evaluation occurred when the Rialto (California) Police Department conducted a study beginning in February 2012 and it lasted through July 2013. The study involved 54 officers, half the department, being randomly chosen to wear a body camera. This experiment examined “the impact of the cameras on citizen complaints and police use of force incidents, comparing officers who wear the cameras to officers who do not” (as cited in White, 2014, p. 17). White (2014) found, by reviewing the Rialto study, “Moreover, use of force by officers dropped by 60 percent, from 61 to 25 instances” (p. 27). The second test involved the Mesa (Arizona) Police Department and occurred from October 2012 to September 2013. Fifty officers were equipped with body cameras and they were compared to similar officers who did not wear the body camera. Throughout the study, officers were examined for their perception of the technology. The evaluation’s focus was the same as the goals of the previous studies (as cited in White, 2014). The Phoenix (Arizona) Police department participated in the third study in April 2013 and it continued for one year. The study involved 56 officers wearing body camera systems and 50 comparison officers. The focus was to find out if the camera reduced unprofessional conduct on behalf of the officers, citizen complaints and resistance, and exonerate officers who are falsely accused by citizens of misconduct.

The implementation of officers wearing body cameras will enhance officer and civilian safety. Because “Police cameras, you see, have a way of altering the behavior

of both cops and civilians" ("Why Not," 2014, para. 2). The civilian will tend to display a little more compliance, while the officer follows the proper procedures as stated in the department policy manual. The lack of a negative interaction between the civilian and the officer, when an officer is wearing a body camera, can result in providing an atmosphere that is adequate for officer and civilian safety.

Another way that body worn cameras provide safety is that the video can be used during officer training. Video can provide an actual account of an incident so that the officer can see what to do or what not to do in a similar incident. Experienced officers and training officers use video that was obtained by dash cameras, in patrol units, on a regular basis as a beneficial training tool (Westphal, 2004). Now they can use the video from the officer worn body camera. Although the video from a dash camera gives an officer some training, it restricts the trainer from being able to completely demonstrate the safety issue. A dash camera is firmly mounted to the patrol unit's dashboard and can only view what is in front of the vehicle. But the body camera lets an officer see every detail of the incident that the body camera-wearing officer is involved in.

COUNTER POSITION

Equipping the officers in a law enforcement agency is very expensive. The Taser Axon body camera cost anywhere from \$800 to \$1,000 (White, 2014), not including the cost to replace any parts or cameras that break and replacement batteries. The recordings must be stored as evidence; some recordings are stored forever and according White (2014). The Mesa report stated that when using cloud based data

storage systems, “the initial purchase of fifty Axon Flex cameras, including applicable sales tax was \$67,526.68” (as cited in White, 2014, p. 37).

However, while this may be true, the expense of outfitting officers with body cameras costs far less than any litigation that can occur as a result of an agency not having proof that the allegations are false. Litigation can cost an agency millions of dollars, compared to the \$800 to \$1,000 price tag per body camera. The cost of storage can be combated by agencies developing the ability to “come up with their own solutions, or use off-the shelf products such as Google Glass” (Mims, 2014, para. 8). There is also the ability to burn the video to DVD, label it, and store it in the evidence room for the cost of the DVDs, which can run from \$15 to \$36.

Some citizens may view the use of body cameras by law enforcement officers as a violation of privacy. The American Civil Liberties Union (ACLU) has commented, “police officers enter people’s homes and encounter bystanders, suspects, and victims in a wide variety of sometimes stressful and extreme situations” (Stanley, 2013, para. 6). There are some citizens who do not want the police to have the ability to record the inside of their homes regardless of the situation. According to The New York Times, the public’s and officers’ concerns are with agencies releasing the video, involving private conversations, to the public (Johnson, 2014). The fear of displaying a video to the public, which contains personal moments, is at the forefront of some citizen’s minds.

The Las Vegas Police Protective Association threatened to file a suit against the Metropolitan Police Department if they were to implement the use of body cameras on officers. The officers were concerned that supervisors may analyze all their recordings in an attempt to find career ending violations (White, 2014). Officers who follow the

implemented policy for wearing body cameras should not have any concerns of being relieved of duty for misconduct.

Although the violations of privacy concerns are valid, the ACLU supports the use of body cameras by law enforcement agencies (Vorndran, Burke, Chavez, Fraser, & Moore, 2014). The ability to use video obtained from an officer's body camera as evidence relies on implementing a policy. There must be a policy in place that guides officers on the correct operation of the body camera and the procedures for maintaining the proper chain of custody of the video (Ferrell, 2013). The policy must state who, what, when and where an officer will activate his body camera. Officers must be aware of how following the policy can result in their exoneration or the conviction of a suspect in court. Citizens that worry about violations of privacy should remember that the officer is being recorded as well, thus "helping protect the public against police misconduct and at the same time helping protect police against false accusations of abuse" (Stanley, 2013, para. 4). The use of body cameras can be beneficial to both officers and citizens.

RECOMMENDATION

Technology in law enforcement is growing at a rapid rate. It is the responsibility of law enforcement agencies to adapt and accept those changes. There was a time when video recording an incident was not even a thought, then arrived the dash camera for patrol vehicles. It was understood that every police car was equipped with a dash camera. Officers have used them for training purposes and as evidence in traffic cases; sometimes they could be used for criminal cases, if the incident occurred in front of the patrol vehicle (Westphal, 2004). Now technology has provided cell phones and social media, resulting in law enforcement being video recorded and uploaded for the world to

see. The majority of the time, the citizen journalist posted the video in an attempt to gain a reaction of ridicule towards the police by the public. Now, law enforcement agencies have the ability to equip their officers with body cameras, allowing the officers to protect themselves from the accusations of abuse and excessive force by the public. The body cameras can, also, protect the public against acts of misconduct by an officer. Because of the video recording, officers will think twice about their interactions with the public.

Complaints of police misconduct have severely decreased in those agencies that have implanted the use of body cameras (White, 2014). Most of the time, when a citizen has a complaint and they see the video, the complaint is immediately retracted. When a complaint is not retracted the video recording from the body camera can be used in the officer's defense. The video recording from the body camera can exonerate an officer by showing that the officer was actually following all departmental policies.

Law enforcement agencies should implement the use of body cameras by police officers. The concept of body cameras on police officers has evolved through technology as the answer to liability problems. The use of body cameras is law enforcement's answer to the citizen journalist, who posts videos that contain unconfirmed and sometimes edited events involving officers and the public.

Equipping all the officers in a police department can be expensive, although it would cost far less than litigation involving police misconduct. Law enforcement agencies could begin by equipping only a portion of the officers at a time, every fiscal year, until all the officers are equipped. Storing the data from the body cameras do not have to be done by the body camera manufacturer, some agencies use an off the

shelve program like Google Glass to store their data on a cloud or they can reach a solution that works for that agency.

Realizing the potential of using video recordings from body cameras for evidence is very important. The video obtained by an officer's body camera can be used to get a suspects conviction if it is obtained and stored according to policy. The video must be unedited, securely stored, and presented to the court in its original form; it must be of good quality, both audio and video must be clear.

The concerns by citizens and police about privacy violation should be looked at in a different light. Citizens need to remember that the police are less likely to behave abusively when they know they are being recorded. Police need to think about the fact that whenever a false accusation of police misconduct is brought forward, their video can exonerate them if they followed the departmental policies.

People who realize that they are being recorded tend to adapt their demeanor by becoming compliant and courteous towards each other, which provides a safe environment for the officer and the citizen (White, 2014). Another safety issue is that body cameras allow for better training. The dash camera shows a limited view, whereas the body camera is mounted to the front of the officer's shirt and recording the whole incident. This allows for the officer to view any and all mistakes made; it can also be used to show an officer how to properly perform certain tasks.

There was an incident in Celina, Texas, which involves "dash-footage taken from the hood of a police cruiser" (Wright, Thompson, & Efron, 2014, para. 1). The footage shows an officer violently arresting a man, with no instigation by the arrested man. Fortunately, the officer was also equipped with a body camera. The body camera

footage shows that the arrested man had punched the officer; this footage was not captured by the dash-cam because the incident did not occur within its view. So, there were two cameras with two views and the body camera was the camera that captured the actual incident as it occurred (Wright, Thompson, & Effron, 2014). Because the officer was wearing a body camera, the chance of any false allegations against that officer and lawsuits against the department, by the arrested man or the media, have been muted.

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Appendix

Body-Worn Camera Policy Template

*The follow text is reprinted with permission from the Body-Worn Video Steering Group.
A Word document version can be downloaded from its website by clicking the "Police BVVV Policy Document" hyperlink at www.bvwsq.com/resources/procedures-and-guidelines/.*

Title: Body Worn Video

Policy

1 Introduction

- 1.1 This policy is required to ensure police officers using Body Worn Video (BWV) equipment as part of their operational duties are aware of their responsibilities in relation to its use to secure 'best evidence' and to safeguard the integrity of the digital images captured should they need to be produced for evidential purposes.

2 Application

- 2.1 This policy is effective immediately and applies to all police officers and police staff who use BWV or come into contact with the material recorded by BWV.

3 Purpose

- 3.1 The purpose of this policy is to ensure BWV is used correctly so that the Force gains maximum benefit from the operational use of BWV, and that all staff coming into contact with either the equipment or the images are able to comply with legislation and Force requirements.

4 Scope

- 4.1 This policy covers all aspects of the use of BWV equipment by members of staff and the subsequent management of any images obtained.

5 Policy Statement

- 5.1 *X Police* is committed to making the best use of its resources to capture best evidence by taking full advantage of new technology and the use of Body Worn Video in all appropriate circumstances.

6 Benefits

- 6.1 This policy will facilitate the use of BWV to:
 - Enhance opportunities for evidence capture;
 - Increase early guilty pleas, reducing officer case preparation and court time;

Appendix A: Body-Worn Camera Policy Template

- Assist police officers and PCSOs to control anti-social behavior;
- Reduce protracted complaint investigations by providing impartial, accurate evidence;
- Give greater insight into service delivery and identifying good practice. 7

Responsibilities

7.1 This policy will be monitored and reviewed by *X Department*.

The practical implementation of this policy at local level will be monitored by the Divisional Operations Chief Inspectors, District Single Point of Contacts (SPOCS) and supervisors of the BVVV users.

Procedure (All procedures are ****RESTRICTED****)

1 Introduction

- 1.1 The use of BVVV devices must complement the use of other video and digital evidence gathering devices within the Force. These procedures should be considered a minimum standard for the use of BWV devices.
- 1.2 These procedures have been designed with regard to the current legislation and guidance for the use of overt video recording of police evidence.
- 1.3 All images recorded are the property of the Force and must be retained in accordance with force procedures and the Association of Chief Police Officers (ACPO) Practice Advice on Police Use of Digital Images. They are recorded and retained for policing purposes and must not be shown or given to unauthorized persons other than in accordance with specified exemptions.

2 Objectives

- 2.1 BWV is an overt method by which officers can obtain and secure evidence at the scene of incidents and crimes. These procedures are intended to enable officers to comply with legislation and guidance to create evidence for use in court proceedings.
- 2.2 When used effectively BWV can promote public reassurance, capture best evidence, modify behavior, prevent harm and deter people from committing crime and anti-social behavior. Recordings will provide independent evidence that will improve the quality of prosecution cases and may reduce the reliance on victim evidence particularly those who may be vulnerable or reluctant to attend court.
- 2.3 Using recordings can also affect the professionalism of the service and in the professional development of officers. Officers, trainers and supervisors can use the equipment to review and improve how incidents are dealt with.
- 2.4 The use of BWV relates to crime reduction and investigation strategies and should NOT be confused with the deployment of Public Order trained Evidence Gatherers, which is the subject of other policies.

- 2.5 Professional Standards Department and line management will not routinely search the back office system for misdemeanors or offences committed by users, but if a complaint is received interrogation of the system can be an appropriate line of enquiry.

3 Equipment

- 3.1 The BWV equipment is generally a body-mounted camera with built in microphone. The camera stores digital files that, once recorded, cannot be deleted or amended by the operator. Each file carries a unique identifier and is time and date stamped throughout.
- 3.2 To support the camera systems, stand-alone computers and appropriate software have been purchased for the downloading and storage of digital video files. These provide a full audit trail ensuring evidential continuity is maintained.

4 Upkeep of Equipment

- 4.1 It will be the responsibility of Xsupported by Single Points of Contact (SPOC) to keep records of the serial numbers and location of the cameras on their division.
- 4.2 Any malfunction of the equipment must be reported immediately to the SPOC for that division.
- 4.3 The divisions will be responsible for the upkeep of the cameras, including the cost of any repairs or damage to equipment.
- 4.4 Any new equipment must be purchased via the divisional SPOC.
- 4.5 It will be the responsibility of Divisional Support Services Managers to ensure that there are sufficient DVDs available for use. If staff notices that resources are running low, they should notify the Divisional Support Services Manager accordingly.

5 Training

- 5.1 All uniform frontline Officers and PCSOs will be trained and have access to BWV.
- 5.2 Training in the use of the BWV device will be available via an eLearning package on NCALT. Additional guidance on the Xsoftware has also been produced by L&D and is available via the Neighborhood Policing Branch intranet site (part of the Communications Department).
- 5.3 In order to use BWV equipment officers should receive training in all necessary technical aspects of the specific equipment being used and its use. A training package for the equipment will include:
- Legal implications
 - Practical use issues
 - Evidential continuity
 - Health and safety

Appendix A: Body-Worn Camera Policy Template

■ Diversity issues

■ Professional standards

- 5.4 The eLearning may be completed individually or as a team led by a supervisor. Once a supervisor is satisfied that a member of staff has completed the eLearning, details of authorized users will be supplied to the SPOC who will issue the necessary log on details.

6 Equipment Issue

- 6.1 When not in use all equipment must be securely stored in a suitable location within the police station.
- 6.2 Only officers and PCSOs who have received the appropriate training will be able to "self issue" the equipment. Priority will be given to Neighborhood Response Team (NRT) officers, with any remaining cameras available for issue to Local Support Team (LST) or Neighborhood Policing Team (NPT) staff.
- 6.3 Cameras will be signed out by the user using their network login and BWV password on *X software*.
- 6.4 The user must ensure it is working correctly prior to leaving the station, check that the battery is fully charged and the date and time stamp is accurate.

7 Recording an Incident

- 7.1 The following is guidance on the use of BWV when recording incidents.

a. Decide

Guiding principles are:

- NRT officers will wear BWV when on operational response duty.
- The camera should be switched on when footage might support 'professional observation' or would corroborate what would be written in a pocket book.
- The decision to record or not to record any incident remains with the user.
- The user should be mindful that failing to record incidents that are of evidential value may require explanation in court.

b. Start recording early

It is evidentially important to record as much of an incident as possible; therefore recording should begin at the earliest opportunity from the start of an incident.

c. Recordings to be Incident specific

Recording must be incident specific. Users should not indiscriminately record entire duties or patrols and must only use recording to capture video and audio at incidents that would normally be the subject of PNB entries or as 'professional observation', whether or

not these are ultimately required for use in evidence. There are a few instances where recording should not be undertaken and further guidance on when not to record is included later in this section.

d. Talk

At the commencement of any recording the user should, where practicable, make a verbal announcement to indicate why the recording has been activated. If possible this should include:

- Date, time and location
- Confirmation, where practicable, to those present that the incident is now being recorded using both video and audio

e. Inform

If the recording has commenced prior to arrival at the scene of an incident the user should, as soon as is practicable, announce to those persons present at the incident that recording is taking place and that actions and sounds are being recorded. Specific words for this announcement have not been prescribed in this guidance, but users should use straightforward speech that can be easily understood by those present, such as, "I am wearing and using body worn video!"

f. Collateral intrusion

In so far as is practicable, users should restrict recording to areas and persons necessary in order to obtain evidence and intelligence relevant to the incident and should attempt to minimize collateral intrusion to those not involved.

g. Private dwellings

In private dwellings, users may find that one party objects to the recording taking place; for example, where domestic abuse is apparent. In such circumstances, users should continue to record and explain the reasons for recording continuously. These include:

- That an incident has occurred requiring police to attend
 - That the officer's presence might be required to prevent a Breach of the Peace or injury to any person
- The requirement to secure best evidence of any offences that have occurred, whether this is in writing or on video and the video evidence will be more accurate and of higher quality and therefore in the interests of all parties
- Continuing to record would safeguard both parties with true and accurate recording of any significant statement made by either party
- An incident having previously taken place may reoccur in the immediate future
 - Continuing to record will safeguard the officer against any potential allegations from either party

Appendix A: Body-Worn Camera Policy Template

h. Sensitivities connected with faith.

The filming in domestic circumstances could be an issue with some faiths. An example may be a situation in which the female may not have a face covering within the home. Officers should be aware of this fact and be sensitive to the wishes of those involved in these cases.

i. Do not interrupt filming.

Unless specific circumstances dictate otherwise (see below) recording must continue uninterrupted from commencement of recording until the conclusion of the incident or resumption of general patrolling.

j. Concluding filming.

It is considered advisable that the officer continues to record for a short period after the incident to demonstrate clearly to any subsequent viewer that the incident has concluded and the user has resumed other duties or activities.

Recording may also be concluded when the officer attends another area such as a custody center where other recording devices are able to take over the recording.

Prior to concluding recording the user should make a verbal announcement to indicate the reason for ending the recording this should state:

- Date, time and location
- Reason for concluding recording

k. Don't delete!

Once a recording has been completed this becomes police information and must be retained and handled in accordance with the Code of Practice on the Management of Police Information. **Therefore, any recorded image must not be deleted by the recording user and must be retained as required by the procedures.** Any breach of the procedures may render the user liable to disciplinary action or adverse comment in criminal proceedings.

72 Stop & Search

All 'stop and search' encounters should be recorded unless the search is an 'intimate search' or 'strip search' or if the search requires removal of more than outer clothing.

A video recording does not replace the need for a 'record of search' to be completed by the officer.

There is currently no specific power within PACE to take a photographic or video image of a person during a stop search, although such action is not explicitly prohibited.

8 Selective Capture and Bookmarking

8.1 Selective capture does not involve deletion of any images, merely the user making a choice of when to record and when not to record. It also describes the process of temporarily stopping and restarting recording in order to 'bookmark' the recorded footage.

There are no circumstances in which the deletion by the user of any images already recorded can be justified and any such action may result in legal or disciplinary proceedings.

8.2 Selective Capture

In general, the BWV user should record entire encounters from beginning to end without the recording being interrupted. However, the nature of some incidents may make it necessary for the user to consider the rationale for continuing to record throughout entire incidents.

For example, the recording may be stopped in cases of a sensitive nature or if the incident has concluded prior to the arrival of the user. In all cases, the user should exercise their professional judgment in deciding whether to record all or part of an incident.

In cases where the user does interrupt or cease recording at an ongoing incident, they should record their decision in a PNB or similar log including the grounds for making such a decision.

8.3 Bookmarking

In recording an incident, it is likely that BWV users will encounter victims, offenders and witnesses as well as recording the visual evidence at the scene itself. Bookmarking is a means by which users may separate encounters with each of these types of person or occurrence in order to allow for easier disclosure later. For example if a police officer has recorded an encounter with a witness including disclosure of their name and address, this section should not be shown to the suspect or their legal representative.

It is recognized that bookmarking is not always practicable due to the nature of incidents and therefore this should only be attempted if the situation is calm and the operator is easily able to undertake this procedure.

Prior to any temporary suspension for the purpose of bookmarking the user should make a verbal announcement for the recording to clearly state the reason for suspending recording. The user should also announce that they have recommenced recording at the same incident as before.

The bookmarking process will be demonstrated on the final whole recording by a missing section of a few seconds. In creating the master disk exhibit for court the user must include all bookmarked sections for the incident as one complete master recording of the incident.

Appendix A: Body-Worn Camera Policy Template

9 Witness First Accounts

- 9.1 If the BWV user is approached by victims or witnesses who are giving their first account of the crime the user may record the encounter using BWV but this should be considered against the needs of the individual with due sensitivity to the nature of the offence being reported. Any initial disclosure from victims and witnesses recorded by BWV should be treated as an evidential recording and submitted to the investigating officer. This is important to ensure compliance with statutory identification procedures under PACE Code D.
- 9.2 Such recordings do not replace the need for formal written statements from victims or witnesses but they can be used as supporting evidence for the statements and can also be considered as hearsay evidence and used in accordance with the provisions of the Criminal Justice Act 2003.
- 9.3 If this recording amounts to the victim's first notes or initial description of suspects they may refer to the relevant section of the video when making their written statement. Care must be taken to ensure that only the witnesses account is reviewed by the witness and they must not be allowed access to other sections of the recording. The extent of any review by the witness to assist with making their statement must also be recorded in their statement.
- 9.4 Care should be taken to ensure that should a victim or witness provide a 'first description' of the offender on video, that this fact should be recorded and submitted to the investigating officer. This is important to ensure compliance with statutory identification procedures under PACE Code D.
- 9.5 In the case of victims of serious sexual offences the user must consider the guidance in ACPO (2009) Guidance on Investigating and Prosecuting Rape. The victim's explicit permission for video recording of the initial disclosure should be sought and if the victim is in any way unsure of the need for the recording to be made or is uncomfortable with the thought of being recorded then the user should not record using video.
- 9.6 If the victim does not consent to being video recorded the user may consider the option to divert the camera away from the victim, or obscuring the lens and then record the encounter using the audio only facility. Again in these circumstances the explicit consent of the victim must be obtained prior to audio only recording.
- 9.7 Initial accounts from the victim should be limited to asking about:
 - Need for medical assistance
 - Nature of the incident (to ascertain if a Sexual Offences Liaison Officer is required)
 - Identity of the suspect (if known)
 - Location of the suspect (if known)
 - First description of the suspect (for circulation if appropriate)
 - Time of the offence in order to prioritize action

- Location of the crime scene(s)
- Identification of forensic opportunities, including information for forensic medical examinations
- Activities since the offence took place (to establish forensic evidence opportunities)
- Identity of any other person(s) informed of the incident by the victim (to ascertain early complaint)
- Identity or existence of any witness(es) to the offence or to events immediately prior to or after the offence

10 Recording of Interviews

10.1 BWV should not be used to record interviews of suspects under caution that occur at a police station. It may be used to record interviews that take place other than at a police station. However, recording of interviews under such circumstances does not negate the need for them to be recorded contemporaneously. There is no provision within the Police and Criminal Evidence Act 1984 for this.

10.2 BWV can and should be used to capture hearsay evidence. An example of this is a situation in which a store detective gives his account of a suspected shoplifter's actions to an investigating officer, in the presence and hearing of the suspect.

11 Scene Review

11.1 An additional use of BWV is to record the location of objects and evidence at the scene of a crime or incident. This can be particularly beneficial in allowing the Senior Investigating Officer an opportunity to review scenes of serious crime or in effectively recording the positions of vehicles and debris at the scene of a serious road traffic collision.

11.2 If reviewing a scene this should be treated as an evidential recording and where possible the officer should provide a running commentary of factual information to assist later viewers.

12 Limitations on Use

12.1 BWV is an overt recording medium and can be used across a wide range of policing operations. There are a few examples of situations where the use of BWV is not appropriate. In all cases users and supervisors must use their professional judgment with regard to recording.

12.2 The following examples of where the use of BWV is not appropriate are for guidance only and this list is not exhaustive.

- *Intimate searches* — BWV must not be used under any circumstances for video or photographic recording to be made of intimate searches.
- *Legal privilege* — users must be careful to respect legal privilege and must not record material that is or is likely to be subject of such protections.

Appendix A: Body-Worn Camera Policy Template

- *Private dwellings* — whilst use of video at the scene of domestic violence incidents is covered in other sections, users must consider the right to private and family life, in accordance with Article 8 of the Human Rights Act, and must not record beyond what is necessary for the evidential requirements of the case.

- *Vulnerable Witness interview (VWVI)* - the use of BWV is not a replacement for VWI and vulnerable victims must be dealt with in accordance with force policy 1130/2012 - Investigative Interviewing Policy.

- *Explosive devices* - like many electrical items, BWV cameras could cause electrostatic interference, which may trigger explosive devices. Therefore, BWV equipment MUST NOT be used in an area where it is believed that explosive devices may be present.

13 Audit Trail

13.1 An audit trail is covered by use of the *X software*.

14 Production of Exhibits

14.1 All footage recorded to the BWV unit will be downloaded at the end of the officer's tour of duty. Officers should return the units to their home station.

14.2 Evidential footage downloaded will be saved on the relevant stand-alone BWV computer as per the approved procedure. It will be identified by exhibit number, incident type, name(s) of any accused person(s) and the Storm reference, if appropriate.

14.3 Evidential footage will be considered any data that is:

- Evidence of an offence
- Supporting evidence for any process (e.g., charge, Fixed Penalty Notice, Penalty Notice for Disorder)
- Footage that is required for a relevant and proportionate policing purpose - i.e. footage taken of an overcrowded town center taxi-rank to highlight the need for an extended facility to Local Authority partners
- Footage that is revealable under The Criminal Procedure and Investigations Act of 1997

14.4 Data will not be downloaded to any device other than the dedicated stand-alone BWV computer provided.

14.5 *X software* will be used to book out BWV units.

- 14.6 Data downloaded as **non-evidential** will be stored on DEMS for 31 days. During that time it is searchable and can be retrieved and marked as evidential. After this period it will be automatically deleted.
- 14.7 As soon as reasonably practical, the user will make two DVD copies. The first will be a master copy, which will be sealed, labeled, and entered into the G83. The second will be a 'working copy' for investigation and file preparation purposes. DVDs should be retained in line with force policy 610/2012 - Audio and Video Unit Procedures Policy.
- 14.8 If the 'working' copy contains any sensitive information, i.e. witness details, and has not been sanitized, clearly mark it **'Do not disclose!'**
- 14.9 BWV is supporting evidence and officers will be required to provide written statements, which must include the audit trail for the capture of the footage and the subsequent production of the master disc/DVD. This can be complied with through *X software*. A separate statement evidencing arrests or evidence not captured on BWV should be supplied to the investigation.
- 14.10 For details of what to include in a statement refer to the File Preparation Guidance on the Force intranet.
- 14.11 In order that the recorded evidence can be presented in court the master copy must be preserved as an exhibit. It is recommended for reasons of security that this takes place as soon as practicable after the footage is recorded and that users do not start duty with a recording device that contains evidence of cases from a previous duty or day.
- 14.12 Where more than one BWV device is present at the scene of an incident or the area of the incident is also covered by a CCTV system the officer in the case (01C) must ensure that all available footage of the incident is secured as exhibits in consideration of any defense arguments that may be presented.