

## **5/210.01 BODY WORN CAMERAS**

The purpose of this policy is to establish guidelines for the proper use, management, storage and retrieval of video and audio data recorded by body worn cameras (BWC).

BWCs are an effective law enforcement tool that reinforces the public's perception of police professionalism and transparency, and preserves factual representations of officer-citizen interactions. BWCs have the potential to improve community relations, strengthen public trust in law enforcement, lower the number of citizen complaints, defend officers against false accusations, increase agency accountability, and improve officer training and evaluation.

The Las Vegas Metropolitan Police Department respects the legitimate privacy interests of the citizens and visitors of Clark County when utilizing BWCs.

BWCs are effective in capturing video and audio evidence for use in criminal and internal investigations. BWCs also serve to enhance the accuracy of officer reports and testimony in court. Audio and video recordings enhance this department's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes. BWCs may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband. This policy does not govern the use of surreptitious recording devices used in specialized operations.

All officers hired on or after July 1, 2013 are required to wear a BWC (based on BWC availability and specific assignments designated by the department). Officers hired prior to July 1, 2013, may voluntarily wear a BWC.

The Body Camera Detail, assigned to Patrol Operations Support Section, is responsible for the management, planning, operations, and evaluation of LVMPD's BWC program.

### **DEFINITIONS**

Body Worn Camera (BWC) - A mobile audio and video capture device that allows an officer to record what is seen and heard. The TASER Axon Flex camera system is the only department authorized and approved BWC. The TASER Axon Flex will only be worn on the collar, epaulette, eyewear, or head mounted. Officers will not use privately owned BWC under any circumstances. The Supply Section will issue and account for all BWC within the Police Equipment Tracking System (PETS). Upon transfer to an assignment where a BWC is not worn, or separation from the department, officers must return the BWC to the Supply Section.

Categorizing - A method to mark and store a BWC recording for a specific purpose and period of time.

Digital Evidence - Includes photographs, audio, and video recordings that are stored digitally.

Evidence Transfer Manager (ETM) - A docking station for the AXON Flex camera and battery. When the camera is docked, video data stored on the camera is automatically downloaded to evidence.com. The ETM also charges the battery and camera.

Labeling - The process of attaching an LVMPD event number in the Title field and the 400 code in the ID field of a BWC recording.

LVMPD.Evidence.com - A secure, "cloud" based storage system which is managed by the Body Camera Detail (BCD), externally hosted by TASER International, and available to all users. Evidence.com is used to organize, classify, manage, view, and archive digital evidence. Evidence.com tracks and provides an extensive audit log of all activity to protect chain of custody.

"Sync" Application - A stand-alone program residing on a department computer that accomplishes the same function as the ETM. The Sync Application is only for use by officers that don't have access to an ETM.

## RECORDING PROTOCOLS

### General Procedure

Officers will activate the BWC when such use is appropriate to the proper performance of duties, where the recordings are consistent with this policy and law, and as soon as practical and safe; to record. Officers will record all contacts with citizens in the following occurrences:

1. Vehicles stops;
2. Person stops: consensual, articulable reasonable suspicion, or probable cause;
3. All dispatched calls for service involving contact with citizens;
4. Detentions, investigations pursuant of an arrest, arrests, suspect interviews, and post-Miranda interrogations;
5. Search of persons incident to arrest (if not already activated);
6. Search warrants of structures or vehicles;
7. K9 searches requested by a Patrol officer;
8. As soon as possible after the occurrence of an officer-involved traffic accident (if not already activated);
9. Code 3 driving;
10. Pursuits: primary and secondary officers;
11. Any contact that becomes adversarial when body camera had not been activated;
12. Transport of Code 5 prisoners;
13. Any other citizen contact or official duty circumstance at the officer's discretion based on circumstances and reasonableness.

Officers are not required to obtain consent to video/audio record (except in the case of victims or witness as addressed below). Whenever possible, safe and practical, officers should inform individuals that they are being recorded. Officers should restrict recording

to areas and persons necessary in order to obtain evidence and information relevant to the incident and should attempt to minimize collateral intrusion to those not involved.

Once the BWC is activated, recording will continue until the event has concluded; the following are exceptions:

1. The event is of a sensitive nature, i.e. child sexual assault, presence of child pornography, etc., and the absence of a BWC recording will not affect the investigation;
2. The incident has concluded prior to the arrival of the officer;
3. The incident or event is of such duration that deactivating the BWC is necessary to conserve available recording time;
4. The officer has a reasonable belief there will be no loss of critical documentary information (for example, completing reports at the conclusion of an event, etc.);
5. Investigative personnel arrive and begin the formal investigative process;
6. The officer determines that the recording must be stopped, either temporarily or for the duration of the event, based on clearly articulable reasons;
7. A citizen has requested the officer stop recording. Officers have no obligation to stop recording in response to a citizen's request if the recording is pursuant to an investigation, arrest, lawful search, or the circumstances clearly dictate that continued recording is necessary. However, officers should evaluate the situation and when appropriate, honor the citizen's request. The request to turn the camera off should be recorded, as well as the officer's response.
8. A citizen with standing has requested the officer stop recording within their residence and the officer's presence is not pursuant to an investigation, arrest, lawful search, or the circumstances clearly dictate that continued recording is necessary. As a general rule, if an officer must legally ask permission to enter a premise, the officer should also ask the resident with standing if they will allow recording.

Officers shall continue recording until they announce on camera that they are deactivating their BWC:

- Under the exceptions above. Officers must state the specific reason(s) they are turning off their cameras before doing so;
- When the officer clears an event;
- When the officer arrives at any detention facility and just prior to entering the facility:
  - a. Officers will not activate their BWC inside any detention facility. If circumstances arise where an officer needs to activate the BWC to record an exchange between the officer and the prisoner, the officer will contact the Booking Sergeant who will provide a secure room where the officer can activate the BWC. BWCs will not be used to record exchanges between corrections officers and prisoners;

- b. Officers will not deactivate their BWC when transporting Code 5 prisoners until corrections officers take control of the prisoner and begin their video recording.
- If possible, when experiencing technical problems with the camera.

Activation of the BWC is not required during periods of unassigned time, breaks or lunch periods, or when not in service.

#### Camera Deployment

- A. At the beginning of shift, the officer will:
  - 1. Ensure that the issued equipment has a fully charged battery and is functioning properly;
  - 2. Notify a supervisor whenever there is a malfunction or damage to the BWC and document the malfunction/damage in PETS.
  
- B. During shift, the officer will:
  - 1. Activate the BWC and record as outlined in GENERAL PROCEDURE above;  
NOTE: The TASER Axon Flex camera system is configured with a 30-second pre-event video buffer recording. When the BWC is activated, the preceding 30 seconds of video (no audio) will be captured and become part of the event recording. Audio recording will begin at the time the BWC is activated.
  - 2. All BWC recordings will initially be unlabeled and uncategorized and will be auto-deleted by the system unless the officer does one of the following:
    - a. If a recording needs to be retained the recording officer will label the recording with the event number in the Title field and the 400 code in the ID field. The recording will then be categorized by one of the following:
      - 1) Felony arrests;
      - 2) Misdemeanor arrests;
      - 3) Misdemeanor citations;
      - 4) Traffic citation with violation;
      - 5) Misdemeanor DUI arrests;
      - 6) Adverse citizen contact;
      - 7) Use of force - no arrest;
      - 8) Pursuit - no arrest;
      - 9) OIS deadly force.
    - b. If a recording needs to be retained, either for the officer's reference or for investigative or follow-up purposes, but does not fall into one of the above categories the officer needs to label the recording with the event number in the Title field and the 400 code in the ID field. If applicable, the officer is then responsible to contact the appropriate detective, investigative detail or specialized unit to advise them that a recording exists;
  - 3. Document the existence of a BWC recording in all of the appropriate documents, i.e., Declaration of Arrest, Arrest Report, Incident Crime Report, Citation, Field Interview Card, Officers Report, CAD, etc. Officers will select "Body Camera Video" from the choices in the "Connecting Reports" section

near the bottom of the "Administrative" tab page for P1 reports. Officers will also write "Body Camera Recording Available" on the first line of all report narratives. Do not substitute "refer to video" or other similar language in place of a detailed and thorough report. Officers should avoid using exact quotes, but should represent statements in their reports as a summary of what is contained in the BWC recording;

4. Notify investigative or specialized unit personnel of the existence of BWC recordings at crime scenes and during critical incidents. This shall also be noted in the Major Incident Log;
5. Not allow citizens to review BWC recording in the field. Citizens requesting to view BWC recording will be referred to IAB;
6. Continue to record for a short period after the event to demonstrate clearly to a subsequent viewer that the incident has concluded and the officer has resumed other duties or activities;
7. If an officer fails to activate the BWC or the BWC malfunctions, the officer will document the circumstances and reason as a closing comment to the event on the MDT and in any applicable reports.

C. Supervisor responsibilities:

1. Ensure all BWC officers utilize the cameras in accordance with this policy;
2. Ensure any malfunction or damage to a BWC unit is documented in PETS. The supervisor will remove the BWC from service and contact Body Camera Detail to have the BWC repaired;
3. Access BWC recordings during the course of duties in accordance with the RECORDED DATA ACCESS AND REVIEW section of this policy.

## SPECIAL CIRCUMSTANCE RECORDING

### Victims and Witnesses

The BWC will not be used to record a formal statement from a victim or a witness. BWC recordings do not take the place of a formal written statement from a victim or witness taken in the field. Formal written statements must still be completed. If an officer is approached by a victim or a witness who are giving their first account of a crime the officer may record the encounter but the needs of these individuals and the sensitivity to the nature of the crime being reported should be considered in deciding to continue recording. Officers should ensure that the victim or witness provides the following information, if applicable, in their first account statement of the crime:

- Need for medical assistance;
- Nature of the incident;
- Identity of the suspect (if known);
- Location of the suspect (if known);
- Description of the suspect;
- Time of the offense;
- Location of the crime scene;
- Identification of possible evidence;

- Activities since the crime took place;
- Identity of witnesses.

Officers will not permit victims or witnesses to review any BWC recording before making a first account statement. Officers will document the consent or non-consent on the recording at the time of the first account statement. In the case of crimes, such as sexual assault, where sensitivity to the victim is paramount, officers must get the explicit permission for recording of the first contact statement from the victim and this will be documented on the recording. If the victim is in anyway unsure of the need for the recording to be made or is uncomfortable with the thought of being recorded then the officer should not record the statement. If a victim or witness does not consent to being recorded on any event the officer may consider asking the subject if they would agree to the option to divert the camera away and recording only audio.

#### Juvenile Recordings

It is recognized that video images of juvenile offenders will at times be recorded by the BWC when responding to calls for service or during the course of an investigation. Because of this, officers shall protect video recordings of juveniles the same as still photographs of juveniles. If a department employee has a need to use BWC recorded images of juvenile offenders as part of an investigation, the department employee shall strictly adhere to 5/203.02, Photographing/Fingerprinting of Juveniles. Juvenile victims or witnesses to a crime will only be recorded with the permission of a parent or legal guardian present at the time of the recording. This permission must be documented on the recording. If consent is not given to being recorded the officer may consider the option to divert the camera away from the subject and recording only audio.

#### Crime Scenes

BWC officers who record video at a crime scene will identify themselves to arriving investigative personnel so that the presence of video can be noted by the detective(s). Officers will cease recording, if they haven't already done so, once the investigation begins. BWCs will undoubtedly record video of evidentiary value as officers arrive, handle and conduct preliminary investigations at crime scenes. These recordings will not replace evidence collection by crime scene investigators and are not the primary means for documenting evidence at a crime scene.

#### Major Incidents

Supervisors on major incidents should deploy BWC officers as necessary to meet their tactical requirements. Supervisors should consider using a BWC officer(s) to document key activities at a major incident if it is safe, practical and feasible to do so.

#### Officer Involved Shootings

Following an officer involved shooting, or other use of deadly force, involved personnel or any supervisor shall not view the BWC recording on any device or computer prior to FIT/CIRT/IAB viewing the footage.

- Involved officers shall be allowed to view their own BWC recording prior to a walkthrough and statement;
- Witness officers shall be allowed to view their own BWC recording prior to a walkthrough and statement;
- Except when exigent circumstances exist, such as an officer being injured, in order to obtain identifying suspect information or other pertinent information from the BWC recordings;

FIT personnel will be responsible for collecting and securing the BWCs from all involved and witness officers at the earliest opportunity. FIT will transport the cameras to the involved officer's area commands for upload into Evidence.com. The BWC will be returned to the officer once the video is uploaded into Evidence.com.

#### Sensitive Locations

BWC officers should be mindful of locations where recording may be considered insensitive, inappropriate, or prohibited by private policies. Such locations include places of worship, religious ceremonies, certain locations in hospitals or clinics, law offices, day care facilities, etc. The presence of, and recording by, BWCs may not be practical even though officers may have a legal reason to be present and conduct public safety business. At such locations, at the officer's discretion and based on the circumstances, BWCs may be turned off. Officers must state the reason they are turning off the camera before doing so. The officer may consider the option to divert the camera away from any subjects and recording only audio if appropriate.

#### Community Policing Activities

Officers have great discretion whether to record informal, non-law enforcement related contacts with the public. Recording these activities should be an exception. These community-related activities foster a positive relationship between the public and the police. The presence of cameras that are recording may signal distrust of the public and hinder community relations.

#### Restrictions

BWC shall be used only in conjunction with official law enforcement duties. The BWC shall not be used to record:

1. Any personal conversation of or between other department employees without the recorded employee's knowledge (see Covert Mechanical Recordings, 4/103.24);
2. Non-work related personal activity and will not be activated in places where a reasonable expectation of privacy exists, such as locker rooms, dressing rooms or restrooms;
3. Major crime investigative briefings without ranking ISD/HSD personnel approval;
4. Encounters with undercover officers or confidential informants;
5. Departmental meetings, workgroups, in-service training, or assignments of an operational or administrative nature. Using body cameras for training purposes such as AOST or RBT is not a violation of this restriction.

## UPLOAD AND STORAGE PROCEDURES

### General

Officers will label and/or categorize recordings as soon as practical after the conclusion of the event but no later than the end of the shift in which the recording occurred. All recordings will be uploaded to LVMPDnv.Evidence.com before the end of the officer's shift.

Supervisors are responsible to retrieve an officer's BWC and upload it by the end of the shift if that officer is unable to do so due to unforeseen circumstances. Under such circumstances the officer will label and/or categorize those recordings as soon as possible. Once recordings are uploaded to LVMPDnv.Evidence.com the program provides detailed tracking on who accesses recorded data, when and for what purpose. This extensive audit system prevents data tampering, deleting or copying.

### Data Storage, Security, and Access

1. The Body Camera Detail is responsible for the storage and security of BWC recording files;
2. Any and all images, video, and/or audio generated by any BWC are the sole property of the Las Vegas Metropolitan Police Department;
3. Unauthorized use, duplication, and/or distribution of BWC recordings files are prohibited;
4. Employees shall not download, copy, or record BWC recordings from Evidence.com onto any computer, device, drive, CD/DVD, or any other format without the express written consent of the Sheriff or his designee. Only trained LVMPD personnel shall operate the BWC;
5. Employees shall not remove, dismantle or tamper with any hardware/software component or part of the BWC. Employees shall not attempt to erase or alter in any manner, BWC recordings file;
6. Evidence.com shall only be accessed from LVMPD authorized computers. Access to Evidence.com from a home, personal, or non-departmental mobile device is prohibited. EXCEPTION: Administrative users of Evidence.com may access Evidence.com from a computer or device outside the department for the purpose of completing administrative tasks, such as locking or unlocking users, etc.;
7. Employees shall not publish or display BWC recordings to the internet or social media sites, in accordance with department policy 4/110.02, Improper Use of Electronic Communication Devices;
8. IAB personnel may allow citizens, arrestees or violators to view BWC recordings as part of an investigation into an allegation of misconduct;
9. BWC recordings shall not be used or shown for the purpose of ridicule or embarrassment.

### Category Retention Schedule

The retention period begins from the date the BWC recording was labeled or categorized. Unlabeled or uncategorized recordings will be auto-deleted at 45 days.

Department administrators, in addition to the recording officer, may label or categorize recordings for retention.

- OIS/Deadly Force/Homicide 7 Years
- Felony/GM Arrest 2 Years
- Misdemeanor Arrest or Citation 1 Year
- Traffic Citation with violation captured 120 Days
- Use of Force (Low Level/Intermediate) 90 Days
  - If arrest is made, arrest retention schedule overrules
- Pursuit 90 Days
  - If arrest is made, arrest retention schedule overrules
- Uncategorized (no tag) 45 Days

## RECORDED DATA ACCESS AND REVIEW

All access and activity on Evidence.com is logged and subject to audit at any time. Access to Evidence.com and the data stored in the system is permitted on a right to know, need to know basis. Personnel authorized under this policy may only view video data according to the provisions of this policy and as designated by the Systems Administrator, the Sheriff or his designee.

BWC video can be viewed on a mobile device, mobile data terminals in patrol cars, and on computer work stations. Once uploaded to LVMPD.Evidence.com, authorized personnel may view BWC recordings on a department computer by logging in to the system and documenting the reason for access in the "NOTES" section prior to viewing any data.

1. OFFICER ACCESS - Officers may view their own BWC recordings as they relate to:
  - a. Their involvement in an incident for the purposes of completing an investigation and preparing official reports. To help ensure accuracy and consistency, officers are encouraged to review the BWC recording prior to preparing reports;
  - b. Prior to court to refresh recollection. NOTE: Officers will ensure that the prosecuting attorney is aware the BWC recording was reviewed;
  - c. Providing a statement pursuant to an internal investigation, including officer involved shooting investigations and other critical incidents. NOTE: Following an officer involved shooting or other critical incident, involved personnel shall not view their BWC recording on any device or computer prior to the BWC recording being uploaded into Evidence.com.
2. SUPERVIOR ACCESS - Supervisors do not have direct access to an officer's BWC video through LVMPD.evidence.com. Supervisors may view BWC recordings from personnel under their supervision in the following instances:
  1. Supervisory investigation following the application of reportable force (except use of deadly force). Supervisors will access the video on scene in the presence

of the involved officer(s) through a mobile device, any MDT, or at a computer station in the area command. If an involved officer(s) is unavailable at the scene, the supervisor will review the video with the officer as soon as practical prior to the Use of Force report being completed. Supervisors will ensure they document their review of the BWC video in the narrative of their investigative comments. Supervisors will ensure that the video is labeled and categorized in accordance with this policy.

2. Supervisory response to a citizen request to file a statement of complaint. Supervisors will handle receipts of complaints in accordance with LVMPD Policy 5/101.26, Section 2, sub-section IV. Supervisors will first interview the complainant before reviewing any available BWC video that recorded the alleged violation. Supervisors will access the video on scene through a mobile device or any MDT. Review of the recording will not happen in the presence of the complainant. If the allegation is not a violation of policy or law the supervisor will notate in the Blue Team Citizen Contact that BWC video is available, was reviewed, and is one of the justifications for the Citizen Contact Report. If the allegation appears to be valid the supervisor will notate in the narrative of the Statement of Complaint that BWC video is available, was reviewed, and is one of the justifications for the Statement of Complaint.
3. During the course of an internal investigation forwarded from IAB to the bureau for completion. In these instances, the video will be sent from IAB to the bureau as an attachment to the investigative packet.
4. To assist in appropriately addressing a clearly documented performance issue. In such cases the supervisor will discuss the issue with the supervising lieutenant who will review the circumstances and, if appropriate, retrieve the video from LVMPD.evidence.com and forward it down to the supervisor.

D. ACCESS BY INVESTIGATIVE PERSONNEL - Internal Affairs Bureau personnel will not access and search BWC recordings for offenses committed by users unless pursuant to an official complaint. Personnel assigned to criminal investigative sections may view BWC recordings as part of their review or investigation of the incident.

E. TRAINING ACCESS - In instances where a BWC recording contains material that is beneficial for training purposes, the recording may be used only after approval from the Sheriff or his designee.

F. LEGAL ACCESS - Personnel in the Office of General Counsel/Risk Management may view BWC recordings as part of their review or investigation of the incident.

G. REQUESTS FOR VIDEO/AUDIO PURSUANT TO NEVADA'S OPEN RECORDS ACT - Nevada law allows for the public to request to inspection and/or copies of public records. Whether a BWC recording is a public record will depend on several factors. Additionally, the character of a recording may change from non-

public to public. As general guidance for release of video/audio please note the following:

1. Evidence is not a public record;
2. Video recordings (photographs) of juvenile offenders are confidential pursuant to NRS §62H;
3. Video/audio recordings obtained within a non-public area (home or non-public area of a business) are not a public record. See, *Wilson v. Layne*, 526 U.S. 603, 614 (1999);
4. Photographs of police officers may not be released by the department unless the officer has consented in writing. NRS §289.025;
5. Video/audio recordings obtained depicting a victim of sexual assault in such a way that their identity may be ascertained is not a public record. NRS §200.3771;
6. Video containing data of the report or investigation of abuse, neglect, exploitation or isolation of older persons or vulnerable persons are not public records. NRS §200.5095;
7. Any other laws making the identity of the person(s) depicted confidential;
8. Any other privacy concerns giving the person(s) depicted a legitimate privacy interest in not having video/audio data released.

The release of any BWC recordings to media outlets will be in strict compliance with this and department policy 5/107.24, News Media and Public Information.

#### TRAINING

The BWC will only be worn and used by officers who have attended department approved training on the operation of the system. All supervisors of BWC officers and other personnel who may access or otherwise be involved with BWCs must also attend this training. All training related to body worn cameras will be coordinated, developed, and conducted jointly by the Body Camera Detail and the Organizational Development Bureau.

#### POLICY AND PROGRAM EVALUATION

BWC technology, policy, operations, and law are new and evolving at a rapid pace. The Body Camera Detail is responsible for monitoring these areas and ensuring that the department is constantly apprised of developments; that policy is updated accordingly and in a timely manner; that operational practices are amended; and that program evaluations and audits are conducted. (8/14, 12/14)■