



31901 PROCEDURE – BODY WORN VIDEO – INCIDENT RECORDING

Version: 3

Last Updated: 10/10/13

Review Date: 10/10/14

ECHR

Potential Equality Impact Assessment: **High**

1. About This Procedure

- 1.1. Body Worn Video (BWV) is an overt method by which officers can obtain and secure evidence at the scenes of incidents and crimes. This procedure is intended to enable officers to comply with legislation and also links to [Intranet Guidelines](#) to create evidence for use in court proceedings.
- 1.2. 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 judgement with regard to recording
- 1.3. There are some examples of situations where the use of BWV is not appropriate and the following list is therefore not exhaustive:
 - 1.3.1. **Intimate searches** – BWV must not, under any circumstances, be used for the video or photographic recording of intimate searches or in any other circumstances where persons are in a state of undress. This will include circumstances where more than outer clothing is removed.
 - 1.3.2. **Legal privilege** – users must be careful to respect legal privilege and must not record material that is, or is likely to be, subject to such protections.
 - 1.3.3. **Private dwellings** – while the 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 (Article 8 of the ECHR) and must not record beyond what is necessary for the evidential requirements of the case.
 - 1.3.4. **Vulnerable Witnesses Interview (VWI)** – the use of BWV is not a replacement for VWI and vulnerable witnesses must be dealt with in accordance with force policy.
 - 1.3.5. **Explosive Devices** – like many electrical items, BWV cameras could cause electrostatic interference which may trigger explosive devices. Therefore, BWV equipment **MUST**



31901 PROCEDURE – BODY WORN VIDEO – INCIDENT RECORDING

NOT be used in an area where it is believed that explosive devices may be present.

- 1.4. This procedure does not deal with covert or directed surveillance, which is covered by the codes of practice issued under the Regulation of Investigatory Powers Act 2000.
- 1.5. When a BWV user is approached by victims or witnesses who are giving their first account of a crime the user may record the encounter. Any initial disclosure recorded on BWV should be treated as an evidential recording and submitted to the investigating officer. This is important under compliance with statutory identification procedures under PACE Code D. Such recordings do not replace the need for formal written statements but they can be used as supporting evidence and used in accordance with the Criminal Justice Act 2003
- 1.6. 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 does not give permission the user should not record using BWV.
- 1.7. All material recorded to the BWV unit must be downloaded at the end of the officer's tour of duty on to the dedicated stand alone BWV computer provided. Evidential footage will be stored and saved in the hard drive of these computers and become the master copy. Footage marked as non evidential will be automatically deleted after 30 days. Evidential material will be saved for a period of time in accordance with Management of Police Information guidelines.

2. Risk Assessments / Health and Safety Considerations

- 2.1. The use of BWV at each incident must be subjected to a risk assessment on its own merits. The risk assessment must include consideration of the health and safety, human rights and welfare of all those involved. The general risk assessment for uniform police work should be borne in mind.
- 2.2. For specific risks that have been identified as possibly associated with the use of this type of equipment please see the Force Risk Assessments Intranet page.



31901 PROCEDURE – BODY WORN VIDEO – INCIDENT RECORDING

3. Procedure

3.1. Recording An Incident

- 3.1.1. The decision to record or not to record any incident remains with the user. The user must be mindful that failing to record an incident is likely to require explanation in court. Therefore, if the user is present at an evidential encounter, they must record the incident. 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 pocket notebook entries, whether or not these are ultimately required for use in evidence
- 3.1.2. Guiding principles are;
- a. Users will wear BWV when they patrol in a response vehicle. Other officers/staff can use BWV when available.
 - b. BWV will not replace traditional forms of evidence gathering. It is to be used as corroborating evidence to the primary forms of evidence such as Pocket Note Book Entry and witness statements.
 - c. The decision to record or not to record any incident remains with the user.
 - d. The user should be mindful that failing to record incidents that are of evidential value may require explanation in court.
 - e. Misuse of BWV data may be treated as misconduct
- 3.1.3. **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.
- 3.1.4. **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



31901 PROCEDURE – BODY WORN VIDEO – INCIDENT RECORDING

instances where recording should not be undertaken – see section 1.3.

- 3.1.5. **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:
- a. Date, time and location
 - b. Confirmation, where practicable, to those present that the incident is now being recorded using both video and audio
- 3.1.6. **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”.
- 3.1.7. **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 minimise collateral intrusion to those not involved. The recording by BWV is not subject to RIPA when used overtly.
- 3.1.8. **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:
- a. That an incident has occurred requiring police to attend
 - b. That the users presence might be required to prevent a Breach of the Peace or injury to any person
 - c. 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



31901 PROCEDURE – BODY WORN VIDEO – INCIDENT RECORDING

more accurate and of higher quality and therefore in the interests of all parties

- d. Continuing to record would safeguard both parties with true and accurate recording of any significant statement made by either party
- e. An incident having previously taken place may reoccur in the immediate future
- f. Continuing to record will safeguard the officer against any potential allegations from either party

3.1.9. **Sensitivities connected with individuals/ communities:** The filming in some circumstances may cause concern with some individuals or communities due to their religious or cultural beliefs and practices. These should be recognised and respected and officers should be aware of this fact and be sensitive to the wishes of those involved in these cases.

3.1.10. **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.

3.1.11. **Concluding filming:** It is considered advisable that the user continues to record for a short period after the incident to clearly demonstrate 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 user attends another area such as a custody centre 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:

- a. Date, time and location
- b. Reason for concluding recording

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.



31901 PROCEDURE – BODY WORN VIDEO – INCIDENT RECORDING

Any breach of the procedures may render the user liable to criminal proceedings.

- 3.1.12. **Recording of Interviews:** BWV should not be used to record interviews of suspects under caution which occur at a police station. It may be used to record interviews which 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.

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

- 3.1.13. **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.

3.2. RMS Recording

- 3.2.1. It is the recording officer's responsibility to ensure that any RMS occurrence where BWV is used is fully updated including a brief summary of the material in the BWV recording.
- 3.2.2. RMS records that have BWV material which has been identified as evidence should be linked to the BWV Business Org on RMS
BWV (Hampshire)(RMS ID- 129 4995)
BWV IOW (Isle of Wight)(RMS – ID 222 7489)



31901 PROCEDURE – BODY WORN VIDEO – INCIDENT RECORDING

Particular attention must be paid to disclosure and what may be considered sensitive, unused or evidential material

3.3. Information Management and Public Access

- 3.3.1. Data will not be downloaded to any device other than the dedicated stand-alone BWV computer provided.
- 3.3.2. Data downloaded as non-evidential will be stored on DEMS for 30 days. During that time it is searchable and can be retrieved and marked as evidential. After this period it will be automatically deleted.
- 3.3.3. DVD/CD's should be retained in line with **Force Retention Schedule**. If the 'working' copy contains any sensitive information, i.e. witness details, and has not been sanitised, clearly mark it 'Do not disclose'.
- 3.3.4. Footage from BWV may be requested by the Public Access Office, which deals with requests for information under the Data Protection Act and the Freedom of Information Act. Both Acts have statutory timeframes attached to them within which the force must respond to applicants and provide the relevant information (subject to the application of any relevant exemptions). Please note that under the Freedom of Information Act, it is an offence to delete any information if a request for this information has been received by the force.
- 3.3.5. If you are contacted by the Public Access Office, please provide the requested footage in DVD/CD format as soon as possible to ensure that there is sufficient time for the office to undertake any required redaction and issue a response to the applicant within the legislative timescales. Please note that a request will cover any information held at the time a request is received so if the footage has not been deleted, it will need to be supplied to Public Access Office for consideration, even if there is an intention to delete in the future.

Commented [11]: Needs checking but its not policy

4. Roles and Responsibilities

- 4.1. See above procedure and also refer to the BWV Guidelines on the Intranet.



31901 PROCEDURE – BODY WORN VIDEO – INCIDENT RECORDING

5. Administration

- 5.1. See above procedure and also refer to the BWV Guidelines on the Intranet.

6. Monitoring and Evaluation

- 6.1. The BWV Force Strategic Lead is responsible for monitoring the implementation and effectiveness of this procedure and the overarching policy.

7. Review

- 7.1. The BWV Force Strategic Lead will review this procedure on an annual basis, or as and when changes in legislation or working practice dictate.

8. Other Related Procedures, Policies and Information Source

8.1. Related Policies

- 8.1.1. 31900 Policy – Body Worn Video

8.2. Related Procedures

- 8.2.1. 26108 Procedure - Processing/Enhancement of Images and Production of Evidential Photograph Albums

8.3. Information Sources

- 8.3.1. Guidance for the Police use of Body-Worn Video Devices
- 8.3.2. ACPO Practice Advice on Police Use of Digital Images
- 8.3.3. Guidelines on the Use of Body Worn Video – force Intranet
- 8.3.4. ICO Guidance on CCTV
- 8.3.5. Force Retention Schedule on Intranet
- 8.3.6. AD203 – Equality Impact Assessment.

Commented [12]: To be checked

Origin: Tasking and Co-ordination