

**POLICY TITLE: Body Worn Video**

**OWNING DIRECTORATE: Criminal Justice Department (CJD)**

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**AIM OF POLICY:** 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.

**BENEFIT OF POLICY:** 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*
- *Assist police officers to control anti-social behaviour*
- *Reduce protracted complaint investigations by providing impartial, accurate evidence*

*Give greater insight into service delivery and identifying good practice*

**REASON FOR POLICY:** 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.

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**DESCRIPTION OF POLICY:** SOJP 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 BWV in all appropriate circumstances. 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.

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**SOURCE DOCUMENT: Main**

**GROUPS AFFECTED: Police officers**

**EQUALITY IMPACT ASSESSMENT: No**

**ACCESS AND DISCLOURE RESTRICTIONS: None**

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## **Introduction**

The use of BWV 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.

These procedures have been designed with regard to the current legislation and guidance for the use of overt video recording of police evidence.

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 unauthorised persons other than in accordance with specified exemptions.

## **Objectives**

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.

When used effectively BWV can promote public reassurance, capture best evidence, modify behaviour, prevent harm and deter people from committing crime and anti-social behaviour. 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.

Using recordings can also impact on the professionalism of the service and in the professional development of officers. Officers, trainers and supervisors can utilise the equipment to review and improve how incidents are dealt with.

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.

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

## **Equipment**

The BWV equipment is generally a body mounted camera with built in microphone. The camera stores digital files which, once recorded, cannot be deleted or amended by the operator. Each file carries a unique identifier and is time and date stamped throughout.

To support the camera systems, 'standalone' 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. The software will be known as Digital Evidence Management Software (DEMS).

## **Upkeep of Equipment**

It will be the responsibility of the IT Department to keep records of the serial numbers and location of the cameras.

Any malfunction of the equipment must be reported immediately to the IT Department.

The IT Department will be responsible for the upkeep of the cameras, including the cost of any repairs or damage to equipment.

Any new equipment must be purchased via the IT Department

It will be the responsibility of Criminal Justice Department to ensure that there are sufficient DVDs available for use. If staff notice that resources are running low they should notify the Criminal Justice Department.

## **Training**

All uniform frontline Officers will be trained and have access to BWV.

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:

1. Legal implications
2. Practical use issues
3. Evidential continuity
4. Health and safety
5. Diversity issues
6. Professional standards

### **Equipment Issue**

When not in use all equipment must be securely stored in a suitable location within the police station.

Only officers who have received the appropriate training will be able to 'self issue' the equipment.

Cameras will be signed out by the user using their network login and BWV password on DEMS.

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.

### **Recording an Incident**

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

#### **1.Decide**

Guiding principles are;

- 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.

## **2. 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. 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.

## **4. 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

## **5. 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".

## **6. 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.

## **7. 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

#### **8. Sensitivities connected with faith.**

The filming in domestic circumstances could be an issue with some faiths. An example may be where 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.

#### **9. 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.

#### **10. Concluding filming.**

It is considered advisable that the officer 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 officer 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:

- Date, time and location
- Reason for concluding recording

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. Any breach of the procedures may render the user liable to disciplinary action or adverse comment in criminal proceedings

### **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 PPACE to take a photographic or video image of a

person during a stop search, although such action is not explicitly prohibited.

### **Selective Capture and Bookmarking**

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 of any images already recorded can be justified and any such action may result in legal or disciplinary proceedings.**

### **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 judgement in deciding whether or not 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.

### **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 at a later time. 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 recognised 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 purpose of 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.

### **Witness First Accounts**

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 PPACE Code D.

### **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**

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.

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 PPACE Code D.

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.

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.

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 prioritise 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(s) to the offence or to events immediately prior to or after the offence

### **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.

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

### **Scene Review**

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.

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.

### **Limitations on Use**

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.

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.

*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 Law, and must not record beyond what is necessary for the evidential requirements of the case.

*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.

### **Audit Trail**

An audit trail is covered by use of the DEMS.

### **Production of Exhibits**

All footage recorded to the BWV unit will be downloaded at the end of the officer's tour of duty. Officers will return the units to the docking station situated in the fingerprint room which is attached to the BWV computer at the end of their duty.

Evidential footage downloaded uploaded on to viewpoint masterfile. It will be identified by exhibit number, incident type, and name of any accused person.

Evidential footage will be considered any data that is:

- Evidence of an offence
- Supporting evidence for any process - i.e. charge, parish hall enquiry

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

DEMS will be used to book out BWV units.

Data downloaded as **non-evidential** will be stored on DEMS for an agreed period. During that time it is searchable and can be retrieved and marked as evidential. After the agreed period it will be automatically deleted.

If the 'working' copy contains any sensitive information, i.e. witness details, and has not been sanitised, clearly mark it '**Do not disclose**'.

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 DEMS. A separate statement evidencing arrests or evidence not captured on BWV should be supplied to the investigation.

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.

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 (OIC) must ensure that all available footage of the incident is secured as exhibits in consideration of any defence arguments that may be presented.

This instruction is designed to avoid discrimination and to ensure compatibility with The Human Rights (Jersey) Law 2000 and its underlying principles.

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**Categories: CJD**

**Related Documents: BWV Business Case**