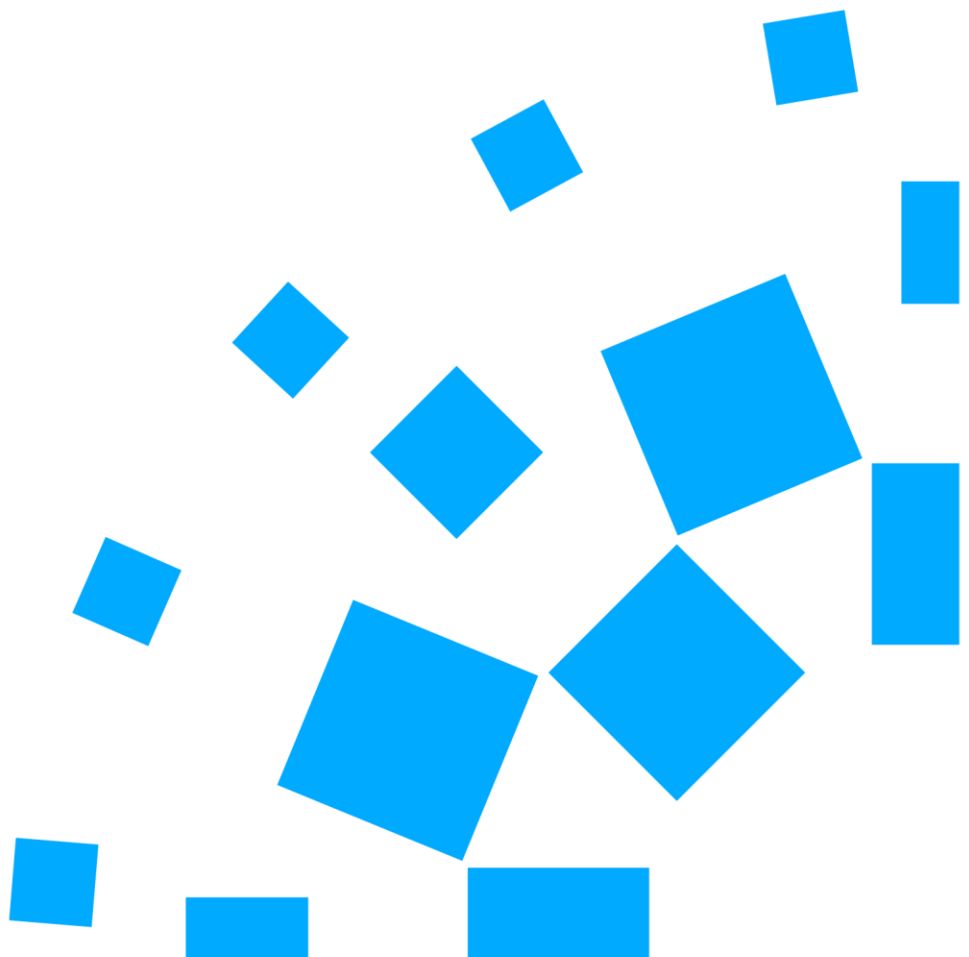


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Published	Body worn video 2014
Superseded	Body worn video 2022





College of
Policing

THE PROFESSIONAL BODY FOR POLICING

Body-Worn Video

2014

Pending inclusion into Authorised Professional Practice

College of Policing Limited
Leamington Road
Ryton-on-Dunsmore
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Publication date: August 2014
(republished with amends to page 19)

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Foreword

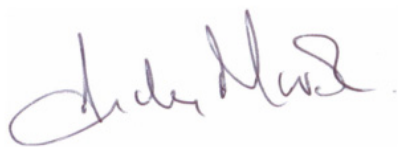
Policing operates in support of the well founded Peelian Principles, which have lasted the test of time. More recently we have seen that technology can significantly help improve the efficiency and effectiveness of policing. Although essential for future policing, technology will never replace officers on the beat but can and will improve the capability to achieve their core purpose.

As the national policing lead for body-worn video (BWV), I have seen the benefits of this technology, which include enhanced contemporaneous evidence capture and swifter justice by way of early guilty pleas and admissions. It can also inform more appropriate sentencing and help to reduce bureaucracy throughout the criminal justice processes by focusing on the needs of victims. Finally, it supports transparency, trust and confidence in the police.

This rapidly developing area of technology has shown considerable early promise, which has been recognised by the Home Office and has gained the support of the Innovation Fund. Emerging technologies, however, need early guidance on their deployment and use. With this in mind, I was asked to undertake the role of the national policing lead for BWV to ensure that the approach to its use is consistent, professional and proportionate.

With the support of colleagues in the broader national policing arena, the Home Office and the College of Policing, we have produced this initial guidance, with its seven key principles. I see this as an interim release in preparation for evidence-based Authorised Professional Practice (APP), which I anticipate will be available during the latter part of 2014.

By complying with the key principles in support of the guidance, I am confident that any future deployment and use of BWV will remain lawful, proportionate and justified.



Chief Constable Andy Marsh

Hampshire Constabulary

(National Policing Lead for Body-Worn Video)

Section 1 – introduction

Purpose

This guidance updates and replaces **Home Office (2007) Guidance for the Police Use of Body-Worn Video Devices**. It explains the relevant legal framework under which forces in England and Wales should operate BWV. It also provides consistency in operating procedures and information management processes for the practical use of BWV.

The guidance follows the structure of the key principles for the overt use of BWV. The procedures should be considered a minimum standard for using BWV devices. They should be used as a basis for force operating procedures or standing orders relating to the use of this equipment.

This guidance must be read in conjunction with [Digital Imaging Procedure](#), [Police Use of Digital Images](#), [Code of Practice on the Management of Police Information](#) and [Surveillance Camera Code of Practice](#).

Key principles for the overt use of body-worn video

Seven principles for the overt use of BWV provide the strategic underpinning of force policy. Each principle is supported by these instructions and associated documentation. All forces should familiarise themselves with these principles.

These principles are subject to continual review and will be updated where necessary. Please refer to [POLKA](#) or the College of Policing [website](#) for the latest version.

Principle 1

The use of body-worn video, by the police, is lawful.

Common law provides the police with the authority to use BWV in the lawful execution of their duties, for the purpose of the prevention and detection of crime.

Principle 2

Data will be processed and managed in line with [Code of Practice on the Management of Police Information](#), [APP on Information Management](#) and the principles of the [Data Protection Act 1998](#).

Data retention, review and disposal must be in line with relevant legislation and current guidance. Forces must be able to ensure the integrity of data throughout the process and have due regard for the [Surveillance Camera Code of Practice](#).

Principle 3

The normal use of body-worn video will be overt.

Chief officers must ensure that the capabilities of BWV equipment are clear to the public. This includes its ability to capture audio as well as visual imagery.

(BWV may be used in covert policing, subject to the relevant authorities).

Principle 4

The operational use of body-worn video must be proportionate, legitimate and necessary.

Compliance with the Human Rights Act 1998 (HRA), Data Protection Act 1998 (DPA) and [Surveillance Camera Code of Practice](#) will ensure the use of BWV is always proportionate, legitimate and necessary. Continuous, non-specific recording is not permitted.

Principle 5

Use of body-worn video will be incident specific. Officers will use common sense and sound judgement when using body-worn video, in support of the principles of best evidence.

Officers are required to justify their use of BWV. There should be a tendency towards capturing audio/visual evidence when deciding whether to record. Nevertheless there are several limitations.

Principle 6

Body-worn video does not replace conventional forms of evidence gathering (such as written statements and Police and Criminal Evidence Act 1984 (PACE) interviews), it supports them.

Officers will continue to follow current practices for achieving best evidence.

Principle 7

Forces will consult locally with their communities on the use of body-worn video.

Engagement will be proportionate to the local level of impact, which will be influenced by a force's decision to deploy BWV.

Forces should carry out consultation to show due regard for the Public Sector Equality Duty and the [Surveillance Camera Code of Practice](#). Consultation is also required for completing a privacy impact assessment and to comply with fair processing regulations in accordance with the DPA.

Definitions

Evidential material is relevant to an incident where positive action has been taken, a crime or incident necessary of investigation has been raised, and/or an arrest has been made.

User covers anyone using BWV equipment, including police officers, special constables, police staff and police community support officers (PCSOs).

A **master copy** is a bit-for-bit copy of the original recording. It is stored securely, in line with force policy and procedures pending its production (if required) at court as an exhibit. The master copy is only viewed if doubt is cast on the integrity of the images.

A **working copy** is the version produced from the master copy for the investigation, briefings, circulation, and preparation of prosecution evidence and defence.

Both master and working copies may be on CD-ROM or DVD, on a RAID (redundant array of independent disks) server or on force networks, depending on the facilities available to the local force.

A **secure server** is an environment that is accredited to a level of at least RESTRICTED under the former Government Protective Marking Scheme (GPMS), still in use in some areas. See [Digital Imaging Procedure](#) for further details.

The Government Security Classifications Policy replaced the GPMS in April 2014 where RESTRICTED classification became known as OFFICIAL or OFFICIAL-SENSITIVE. The police may maintain dual systems for the foreseeable future, given the number of stakeholders with which they deal. For more details see the government [website](#).

For use in accord with a specified **policing purpose** covers all situations where a user exercises a police power, where they would have ordinarily made a record in their pocket notebook, or there is a strong and reasonable presumption towards collecting/capturing evidence.

A user may wish to record an encounter to show their own actions. This needs to be justified, cannot be used for the purposes of identification, and needs to be managed carefully in line with the principles of data management and record retention. Users should be prepared to account for their decision making in such instances.

Section 2 – principle 1

The use of body-worn video, by the police, is lawful.

Legal requirements

This section outlines the legislation relevant to the police use of BWV. Further details of this legislation and its impact on local procedures can be found in [Police Use of Digital Images](#) and in the relevant legislation itself.

Data Protection Act 1998

The DPA regulates the processing of personal data or sensitive personal data, whether processed on computer, CCTV, stills camera or any other media. Any recorded image that captures an identifiable individual is covered by the DPA.

The DPA comprises eight principles and data controllers have a legal obligation to comply with these principles. Principle 1 of the DPA (fair and lawful processing) requires that the data subject must be informed of:

- the identity of the data controller
- the purpose or purposes for which the material is intended to be processed
- any further information that is necessary for the processing to be fair.

The Act requires this information to be made clear to those individuals whose personal data will be processed. In the context of BWV, this is those who are included in the recording. There are various ways to inform data subjects that they are being recorded, including verbally at the time they are being recorded or, if this is not practicable because of an ongoing incident, as soon as possible afterwards. However, as a general rule, where an officer is in uniform and is clearly carrying or wearing a suitably identified camera (clearly labelled as an audio and visual recording device) this condition is considered to have been satisfied. Police force websites can also provide further information.

To assist in complying with principle 1, devices should be clearly labelled to alert a third party to the potential use of video and specifically audio recording equipment. Officers should also consider if the subject could be reasonably expected to understand that BWV was in use in the circumstances.

To ensure compliance with principle 1, the DPA and other DPA principles, forces wishing to use BWV should:

- Issue a series of notices before any use of BWV, for example:
 - a local media campaign to advertise the use of BWV, using local newspapers and other media as well as the force website
 - local community-based forums to advise residents of the use of this technology.

- Clearly label devices or otherwise identify them to inform subjects that they record audio and video footage.
- Limit recordings generally to situations where the BWV user would previously have made a written record of the encounter.
- Announce, where possible/practicable, to the subject(s) of an encounter that video and audio recording is taking place using BWV.
- Begin recordings at the start of any deployment to an incident and continue uninterrupted until the incident is concluded, for example, at the resumption of normal patrolling or because recording has commenced through another video system (eg, at a custody centre).
- Not make recordings of general patrolling duties unless this is part of a specific operation (eg, public order duties at football matches).
- Securely hold all recordings in accordance with force procedures. Access to recordings must be controlled and only persons having the operational need to view specific incidents may view them.
- Retain and dispose of all material recorded by a BWV device in accordance with published force information management policies and other guidance such as **ACPO/Home Office (2007) National CCTV Strategy** and APP on [Information Management](#).
- Prior to disposal, take all reasonable steps to ensure that the images are not required as evidence in any case or complaint under investigation.
- Make a record of the destruction of any non-evidential recording.
- Ensure that officers are:
 - aware that people included in a BWV recording are entitled to obtain a copy via a subject access request
 - able to explain the process for obtaining a copy
 - conversant with the published force policy relating to the retention, review and disposal arrangements for this category of data.

Where personal data is being shared, data controllers must ensure that this complies with their legal obligations under the DPA.

The DPA applies to internal police use of BWV evidence as well as to external use. If a force chooses to use BWV material for monitoring staff or for regular spot checks (for example, by professional standards departments) all relevant staff will need to be made aware of this during their training. For further information on the DPA, see [Data Protection Manual of Guidance](#), Part I Standards, the Information Commissioner's Office [website](#). (APP on [Information Management](#) deals with the practical application of DPA rules).

The European Convention on Human Rights

Article 6 of the European Convention on Human Rights (ECHR) provides for the right to a fair trial. All images from BWV can be used in court proceedings, whether they provide information that is beneficial to the prosecution or the defence. They must be safeguarded by an audit trail in the same way as other evidence that is retained for court.

Article 8 of the ECHR is the right to respect for private and family life, home and correspondence. Forces are required to consider this article when dealing with recorded images, whether they are made in public or private areas.

The use of BWV must be in accordance with the law and proportionate. For the purposes of the ECHR, it has been determined that police users have sufficient powers in common law to justify the use of BWV, see *R (on the application of Wood) v Commissioner of Police for the Metropolis* [2009] EWCA Civ 414 at [98] and *Murray v the UK* [1995] 19 EHRR 193. Use of BWV can, however, be viewed as an interference and so must always be justifiable, on a case-by-case basis.

In principle, the use of BWV is justifiable for preventing and detecting crime. BWV can collect valuable evidence for use in criminal prosecutions and provides a record to promote integrity and confidence in policing, and objective evidence of controversial events and interactions. It offers protection for the police and for citizens. However, a court may closely scrutinise this justification and it is essential that forces do not retain BWV recordings where there is no clear evidence of an offence, unless some other good reason exists for their retention.

Recordings of persons in a public place are only public for those present at the time. Those situations are, therefore, still regarded as potentially private (*Peck v United Kingdom* [2003] 36 EHRR 41; [2003] EMLR 287). Recorded conversations between members of the public should always be considered private. A person's reasonable expectation of privacy in the circumstances is relevant here.

Users of BWV must consider Article 8 of the ECHR when recording and must not record beyond what is necessary for policing purposes.

The guidance provided regarding compliance with the DPA applies equally to Article 8 of the ECHR and it is important that users follow this guidance to minimise the risk of non-compliance.

Criminal Procedure and Investigations Act 1996

The Criminal Procedure and Investigations Act 1996 (CPIA) introduced the statutory test for disclosing material to the defence in criminal cases.

Full details of the disclosure test, the duties placed upon the prosecution team and public interest immunity can be found in [Director of Public Prosecutions Disclosure Manual](#).

The police must be able to disclose both used and unused images and demonstrate that this has been done. Deleting any police-generated images (or a third-party's images in police possession) prior to their respective retention periods may amount to a breach of the Act if they are not then available for disclosure. Forces must retain images relevant to an investigation in accordance with the Code of Practice issued under section 23 of the CPIA. [Police Use of Digital Images](#), section 1.2 Criminal Justice Disclosure contains further information about this requirement. Police-generated digital images should be accompanied by a full audit trail, from the point of capture of the image throughout the whole management process – including when they are passed to the CPS or the defence, or if there is any supervised viewing.

Freedom of Information Act 2000

The Freedom of Information Act 2000 (FOIA) grants a general right of access to all types of recorded information held by public authorities, which may include digital images recorded by BWV.

The Act provides exemptions to the requirements to disclose information. For further information about the application of the FOIA to the police service and for further detail about exemptions, see [Manual of Guidance: The Freedom of Information Act](#).

In making an FOI disclosure, third-party redaction may be necessary to prevent collateral intrusion.

Regulation of Investigatory Powers Act 2000

Part 2 of the Regulation of Investigatory Powers Act 2000 (RIPA) covers acts of directed and intrusive surveillance. The Act identifies the procedures and authorities required in these circumstances.

In specific circumstances BWV may be used covertly. When deployed for covert use, forces must comply with the provisions of RIPA.

Protection of Freedoms Act 2012 and the Surveillance Camera Code of Practice

Part 2 of the Protection of Freedoms Act 2012 deals with the regulation of CCTV and other surveillance camera technology and introduces the [Surveillance Camera Code of Practice](#). Section 29(6)(b) of the Act states that this code covers any other systems for recording or viewing visual images for surveillance purposes. This includes BWV.

Section 33(5) specifies relevant authorities who are placed under a duty to have regard to the code. In general terms, these relevant authorities include police forces in England and Wales, the non-territorial police forces, police and crime commissioners and the National Crime Agency.

A force must consider the code and its 12 guiding principles. The content will be relevant when a court takes into account whether the force has shown regard to the guidance in the code when exercising any of its functions, including the decision to deploy BWV.

Forces must provide strong justification where they wish to divert from the code's principles. However this does not prevent them from issuing local policy where appropriate. The Surveillance Camera Commissioner's primary focus is the integrity of the entire process, which must be safeguarded at every juncture to ensure its transparency. Forces need to be able to justify all operational and procedural decisions made, from visual/audio capture to ultimate disposal.

Police and Criminal Evidence Act 1984

The Police and Criminal Evidence Act (PACE) Code D relates to identifying persons and includes the use of video under the definition of photograph.

Section 64A of PACE permits a person to be photographed in certain circumstances, with or without their consent, by a constable elsewhere than at a police station, although it does not specifically refer to BWV.

The power applies if the person has been:

- arrested by a constable for an offence
- taken into custody by a constable after having been arrested for an offence by a person other than a constable
- made subject to a requirement to wait by a police community support officer (PCSO)
- given a direction by a constable under section 27 of the Violent Crime Reduction Act 2006
- issued with a fixed penalty notice by a constable, PCSO or accredited person.

This power also includes the use of reasonable force to take the photograph and to require the person to remove head or facial coverings, or if necessary to remove such coverings themselves, but only within the scope of section 64A.

Section 64A does not include any power to carry out a sound recording.

Other circumstances in which BWV might be used to record images, such as the general operational use of BWV, are not covered by PACE.

If any BWV material is to be used to assist with identifying suspects, users must follow PACE Code D.

PACE Code C deals with the treatment of persons in custody and interviewing offenders and suspects. Save for exceptional circumstances, Code C requires that suspects are interviewed at police stations. Using BWV for this purpose is likely to circumvent the provisions of Code C and is, therefore, not allowed.

Section 3 – principle 2

Data will be processed and managed in line with Code of Practice on the Management of Police Information, APP on Information Management and the principles of the Data Protection Act 1998.

Information management

The use of BWV devices generates a large amount of digital material that must be stored appropriately and retained, reviewed and deleted.

Forces must implement and publish a robust and effective policy and process for managing this.

All digital images obtained for policing purposes should be treated in accordance with APP on Information Management, Code of Practice on the Management of Police Information and the Data Protection Act 1998.

Audit trail

To prove the authenticity of recordings required as evidence in a trial at court, evidential continuity statements may be necessary. Such statements confirm that any securely stored master copy has not been tampered with in any way and must, therefore, include the following content:

- equipment serial number/identifying mark
- day, date and time the user took possession of the equipment (time A)
- day, date, time and location the user commenced recording (time B)
- day, date, time and location the user concluded recording (time C)
- day, date, time and location that the master copy was created and retained in secure storage (time D)
- if any other person had access to or used the equipment between times A, B or C and time D (if so a statement will be required from that person).

Producing exhibits

To allow the recorded evidence to be presented in court, forces must preserve the master copy as an exhibit.

Creation of exhibits must follow Digital Imaging Procedure and be in accordance with local force procedures.

Users should not store evidence on removable storage cards/media.

Disclosure

Where BWV material is used as evidence, it will be an exhibit. If it is unused, the disclosure regime applies and the material must be disclosed on the relevant MG forms in a prosecution file.

Multiple recordings

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 BWV user in the case must ensure that all available material of the incident is secured as exhibits in consideration of any defence arguments that may be presented.

BWV users dealing with all cases involving video and CCTV evidence must be mindful of *R v Birmingham* [1992] Crim LR 117 (the Birmingham defence). In this case a video recording had not been disclosed to the defence, even after specific requests for unused material to be served were made. It was also not disclosed to the CPS by the police, who regarded the tape as having no relevance. By the time of the trial the tape could not be found and there was no prospect of it being found. The indictment was stayed as a fair trial was not possible and the continuation of the case would be a misuse of process. The police had been wrong to treat the tape as of no relevance. The prosecution's contention that these matters should be considered by a jury rather than a judge was rejected.

Providing copies for the defence

In general terms BWV material should be disclosed to the defence in the same manner as other case exhibits. A suitable summary of the evidence will suffice as initial details of the prosecution case. It should only be necessary to provide copies to the defence in the case of actual or anticipated not guilty pleas. Local consultation should take place to ensure that while necessary information is provided as swiftly as possible, resources (both time and physical) are not wasted through providing materials that will not be used.

It is important to ensure that copies to be served on the defence do not contain any sensitive information such as the addresses of witnesses. Forces should produce an edited version of the DVD or CD-ROM and appropriately mark the copy as prepared for service on the defence.

Storage, retention and deletion

Storage

All recorded material must be stored and retained in a secure manner in accordance with force procedures. See [Police Use of Digital Images](#), [Digital Imaging Procedure](#) and [APP on Information Management](#).

Images should be stored so that they are retrievable and accessible for replay and viewing, and kept in an environment that will not be detrimental to the quality or capacity for future viewing.

They should be appropriately labelled and include information regarding review or disposal dates.

Working copies that the officer in the case (OIC) no longer requires for investigation purposes may be stored with the relevant file or in the detained property store until the accused is acquitted or convicted, or the prosecutor decides not to proceed with the case. When the OIC or CPS no longer requires a working copy, it should be securely disposed of. The master copy remains in the detained property store in case copies are required in the future.

Retention and deletion

Overt filming raises significant human rights issues, notably the question of whether police action is compatible with the right to respect for private life protected by Article 8.

Challenges to the police use of BWV and in particular the retention of images have been heard in the courts and a number of judgments made.

Taking photographs and recording video of incidents and individuals is not likely to be unlawful, provided that users follow this guidance. If forces wish to retain such images, the purpose for which the photographs were taken and their continuing retention has to be justified and proportionate.

Once it becomes clear that the purpose for which the images were taken is no longer valid or no longer exists, the possibility that the photographs could be of some legitimate use in the future is generally insufficient to justify continuing retention. This is made clear in the case of *R (on the application of Wood) v Commissioner of Police of the Metropolis* [2009] EWCA Civ 414 and is confirmed in section 64A(4) of PACE and Code D. The divisional court has also held that retaining photos taken of persons arrested, but not charged, was unlawful – see *R (on the application of RMC and FJ) v Commissioner of Police of the Metropolis* [2012] EWHC 1681. See also Zander, M. (2013) *Zander on PACE, the Police and Criminal Evidence Act 1984*, 6th Edition, pp 338–340.

If the police retain photographs of a person, it must be justified and the justification must be compelling.

Forces should adhere to the following principles when considering the use of overt BWV and retaining images obtained:

- Is it in accordance with the law?
- Does it pursue a legitimate aim, for example, prevention of disorder or crime, is in the interests of public safety, or is for the protection of the rights and/or freedoms of others?
- Is it necessary and proportionate?
- Records should be regularly reviewed to ensure that they remain necessary for a policing purpose and are adequate and up to date. Any records that have no evidential or intelligence value should be disposed of securely.

- The type and amount of information held on an individual subject should not be excessive and must be proportionate to the risk the subject poses to the community.
- The review process should be documented for audit purposes.
- Storage media containing film footage (eg, tapes, discs, memory cards) should be securely stored and only available to staff with an operational need to access the material.

It is the data controller's responsibility to devise a flexible policy that takes into account the ongoing relevance of different types of material, including the retention of material that will not be used as evidence. Forces must have and publish such a policy and process.

The decision to retain footage will be a matter of judgement in every case as some material may be relevant to the ongoing monitoring of a situation, but other material may need to be deleted immediately. For example, BWV recorded in private dwellings is always likely to be sensitive and intrusive, and footage that is not relevant to any criminal investigation or prosecution should normally be deleted in line with local force information management policies. However, in circumstances where there is ongoing concern for victims and their children, it may be appropriate to retain material for longer periods as doing so may help protect them, or, at a future time, provide evidence for courts to consider in proceedings such as applications for non-molestation orders.

Each force must have a prompt destruction policy which is rigorously applied. The case of *Wood v Commissioner of Police for the Metropolis* [2009] EWCA Civ 414 indicates that even the 31-day period in the 2007 guidelines may be too long in some circumstances. If the current guideline of 31 days is retained, forces should develop a strong justification as to why it is not practicable to delete non-evidential footage after a shorter period.

Under normal circumstances, officers should not use BWV as an intelligence-gathering tool and should delete any BWV footage that has no evidential value. Extremely strong justification is likely to be needed to retain such footage, especially where it only shows lawful conduct.

ACPO/Home Office (2007) National CCTV Strategy advises that material should be retained for a period of 31 days for any investigation to become apparent, after which it should be deleted, except in the examples provided above. Users should bear this in mind before deleting any material that is initially considered non-evidential.

The Home Office is preparing a template privacy impact assessment (PIA) for use as a reference tool by forces. PIAs assist in reducing the risks of harm to individuals through the misuse of their personal information. They can also help forces design more efficient and effective processes for handling personal data.

To minimise risks associated with BWV use and potential challenge, forces should carry out and regularly update privacy impact assessments, monitoring the particular circumstances in their areas.

Sharing information with other agencies

Section 29(3) of the DPA allows forces to share material with a statutory partner agency where it is necessary to prevent or detect crime, or apprehend or prosecute offenders.

Police forces should have information sharing agreements (ISAs) in place or information exchange protocols in order to facilitate the sharing of BWV material with partner agencies. For information on ISAs, see APP on [Information Management](#).

All requests for BWV material must be risk assessed in line with the force's policies and relevant legislation. Once the decision has been made to release material, the partner agency should be made aware that they are responsible for its appropriate use and storage. This may be done by writing a letter outlining the partner's responsibilities, including the extent of permitted use.

Forces should transfer material in a secure manner and maintain continuity of evidence, eg, through a pocket notebook entry and exhibit label. Forces must maintain an audit trail.

Sharing information with the media

The police may wish to release BWV images to the media for a number of reasons, including:

- tracing wanted suspects
- locating people who have escaped or absconded from custody
- post-conviction demands for information.

The release of BWV images to the media must always be proportionate, necessary and for a legitimate purpose. Forces must make each decision on a case-by-case basis, and should carry out early consultation with criminal justice partners, where appropriate.

Where images are shared with the media to identify any person shown in the images, forces must take care to obscure other persons shown in the recording whose identity is not sought.

BWV images must be shared in accordance with the DPA and [Communication Advisory Group Guidance](#). All decisions to release images and the reasons for doing so should be recorded, along with any risk assessment. Records relating to the release of images as part of an investigation may be subject to disclosure under the CPIA.

Section 4 – principle 3

The normal use of body-worn video will be overt.

Operational use

BWV devices may be used to gather digital video evidence across a wide range of operational policing situations. For example, BWV may help to support the CPS to achieve enhanced sentencing to prosecute hate crime or domestic abuse offenders. Although the general principles of use apply in all situations, specific considerations may apply to different types of use.

Stop and search

Stop and search encounters involve powers that can have a potentially negative impact on some community relations.

Any stop and search process must comply with the relevant legislation and codes of practice. When using BWV to record such encounters, users should remember:

1. a video recording does not replace the need for a written record of the search, to be completed by the user and given to the person stopped or searched at the time or within the specified time period
2. persons searched are not obliged to give their name, address or date of birth to the officer conducting the search
3. officers may not use BWV during a stop and search encounter for the express purpose of identifying the subject.

There is no specific power within PACE to take a photograph or video image of a person during a stop and search, but such action is not explicitly prohibited (subject to the exclusion in 2. above). If requested to stop recording, officers should, therefore, consider whether it is proportionate and necessary in the circumstances to continue to record the encounter using BWV.

If a stop and search does not result in any evidence of criminal conduct, users must adhere to a process for ensuring that non-evidential material is destroyed promptly, in line with data protection requirements.

Scene review and searching premises

BWV can be very effective for recording the location of objects and evidence at the scene of a crime or during the search of premises. Investigating officers are then able to review, for example, scenes of serious crime, or record the positions of vehicles and debris at the scene of a serious road traffic collision.

In addition, BWV can be used to provide evidence of the conduct of the search, to confirm where items were found and to record significant statements made by persons present at the scene.

When used in this way the BWV recording should be treated as an evidential recording and, where possible, the user should provide a running commentary of factual information to accompany the recording to provide context during the review.

In keeping with standard practice at the scene of an incident that is deemed suspicious or likely to require investigation, the BWV user should always ensure minimal disruption to the scene. Additionally, all personnel should be required to withdraw from the scene so that it can be contained and secured until the appropriate resources (for example, crime scene investigators) are able to investigate.

When planning the execution of a search warrant or similar operation, some consideration should be given to how many BWV users will be present and to how many (or which of them) will record specific elements of the operation. Evidentially and for the purposes of continuity, all officers equipped with BWV and engaged in a search should ensure that their BWV equipment is switched on and recording prior to entering the premises and remains so during the entire searching process.

Use in private dwellings – audio

Under normal circumstances, officers should not use BWV in private dwellings. However, if a user is present at an incident in a private dwelling and is there for a genuine policing purpose, they are entitled to make a BWV recording in the same way as they would record any other incident.

Under Article 8 of the ECHR, individuals have a right to respect for private and family life. Using BWV in a dwelling is always likely to be particularly intrusive, especially during the times of day when occupants are likely to be in bed. Users should, therefore, exercise discretion and record only when it is relevant to the incident and necessary for gathering evidence, where other reasonable means of doing so are not available. All recordings require a lawful basis in order to justify infringing Article 8.

If an occupant of the premises objects to the recording taking place but an incident is taking place or allegations of a criminal nature are being made, users should continue recording but explain their reasons for doing so.

These reasons might include:

- an incident has occurred requiring the police to attend
- the BWV user's continued presence might be required to prevent a breach of the peace or injury to any person
- there is a requirement to secure best evidence of any offences that have occurred and video evidence is more accurate and of a higher quality and, therefore, in the interests of all parties
- continuing to record will safeguard both parties as it is a true and accurate recording of any significant statement made by either party and of the scene

- the incident may reoccur in the immediate future
- continuing to record will safeguard the BWV user against any potential allegations from either party.

If, during the course of the recording, it becomes clear that the incident is not a police matter (eg, not an allegation of a suspected or potential offence) and as such would not have been the subject of an entry in a user's pocket notebook, the user should cease recording. The user should also make a verbal announcement that the recording is being stopped, prior to stopping the video. If it is deemed appropriate, the user may wish to announce that if any incident begins while they are still present recording will resume immediately.

Witness first accounts

BWV may be used to capture the first account of victims and/or witnesses at an incident. However, it should not always be used to capture the first account in cases that do not require an immediate response. Users should seek the permission of a victim prior to recording serious crime victims and witnesses, or involving children or vulnerable adults, who may be eligible for special measures.

The first account is principally about determining any action that is immediately necessary. Officers should only ask such questions as necessary to:

- establish if an offence has been committed
- establish where it occurred and who was responsible
- assess the current risk to the victim(s) and witness(es)
- identify and prioritise areas of the investigation.

Such recordings do not replace the need for formal written statements from victims or witnesses, but they can be used as supporting evidence. They may also be considered as hearsay evidence, where appropriate, and used in accordance with the provisions of the Criminal Justice Act 2003, particularly in domestic abuse cases.

In situations where there are multiple witnesses users should, wherever practicable, keep witnesses physically separate to avoid contaminating descriptions or other evidence. Users should separate BWV recordings of multiple witnesses using the bookmarking process.

When users are dealing with a vulnerable adult or a child (a person under 18) as a witness or victim, the initial contact/meeting should not be recorded on BWV without obtaining permission. This evidence would be subject to disclosure and available to the defence, which is contrary to the witness's or victim's entitlement to opt out of being visually recorded and having their identity masked by a screen when providing evidence at court.

Users should not record the initial accounts of victims of rape or serious sexual assault (including historic allegations) with BWV.

BWV may be used when dealing with priority victims (victims of most serious crime, persistently targeted victims and vulnerable or intimidated witnesses) with their consent. If an interview using Achieving Best Evidence (ABE) methods is required, users should only ask questions to help ascertain if a criminal offence has taken place, where it occurred, who is responsible and to ensure the victim is safe.

Incidents of domestic abuse

BWV can be beneficial when used to capture images following reports of domestic abuse. Such reports may include alleged assaults, criminal damage, or incidents which contribute to a pattern of coercion and control. The recording provides an immediate and exact record of the disturbance throughout the scene and the emotional effect on the victim and their family or other immediate witnesses.

Where an offender is present, a BWV recording captures evidence of their demeanour and language, any continuing offending behaviour such as further abuse directed towards the victim, and evidence of any difficulty in restraining the offender if they are particularly hostile.

Using BWV in such instances can significantly strengthen a prosecution case, drawing attention to the true extent of the offending. The recording can provide evidence that supports grounds for an arrest and, where a victim or witness is reluctant to provide a written complaint, it may also be useful in determining when to proceed with a case without the victim's support. Such images may strengthen a case even further by changing the mind of an initially reluctant or hostile victim, so that they agree to support a prosecution. Victims of domestic abuse tend to diminish the impact of the incident as time passes. The initial use of BWV can be used to capture immediate emotions and reactions.

In instances where allegations of assault are made and officers observe no injuries or other evidence of note, they should use BWV cautiously, and on a case-by-case basis. Injuries may take time to show (such as bruising), and so BWV may not record the whole picture. BWV images should be considered in the context of the alleged incident as they may be neutral in conveying what happened during the incident, or may even be used to undermine a prosecution case and assist the defence.

To help build the strongest case against an offender, BWV users should gather all evidence of actual domestic abuse or of any encounter where they believe such abuse may occur, remembering that all recordings have to be justifiable and proportionate in the circumstances. Evidence captured by BWV can support other sources of evidence in the case, in addition to the victim's account. Users should not disregard the significance of this, particularly if there is an escalated risk to the victim's safety.

BWV users should be aware that recordings made at non-crime domestic abuse incidents may have significance in future prosecutions. BWV users attending such incidents must give consideration to any risk factors that they subsequently record in the DASH (Domestic Abuse, Stalking and Honour-Based-Violence) form and, where appropriate, any history of incidents involving the victim which might support that they are being subjected to any form of abuse.

Where such a history exists or where risk factors are present, users should consider treating the recording as evidential material so that it can be retained to support victims and their children in possible future prosecutions, or to assist in other proceedings such as applications for non-molestation orders or restraining orders. The material can also be used to support preventive measures such as domestic violence protection orders, where appropriate.

Night-time economy patrols

The type of offences and surrounding circumstances such as violence and antisocial behaviour either in, or around, licensed premises are particularly suited to users capturing evidence with BWV equipment.

Typically, offenders have little recollection of their actions or state of mind and are frequently reluctant to accept the facts of a case. Conveying their behaviour to the CPS or a court through written statements is difficult and such offences are often either discontinued or dealt with more leniently than they might otherwise be.

Evidence from BWV recordings provides a first-hand account of the offender's actual behaviour, the attendant conditions and the threat posed to public safety. As a result, it is much more effective in supporting proportionate prosecutions for this type of offence.

Evidence captured by BWV users in respect of issues caused by the actual licensed premises can be used very effectively to support prosecutions or closure orders.

Use as a training aid

Forces can use BWV material to review and enhance how incidents are dealt with, improving the professionalism of policing and providing a powerful tool for behavioural change and continuous improvement. It is entirely a matter for individual forces to determine whether such material should be used for training and development.

If forces wish to use BWV material in this way, they may wish to adopt a procedure for deciding whether material is suitable for use as a training aid, as part of the review process and prior to deletion.

Forces should ensure that footage used for training does not contain, or is edited to remove, any personal data (for example, an individual being identifiable either directly through the footage or in conjunction with other data that the force may hold).

Forces must comply with the requirements of the DPA and the guidelines set out in APP on [Information Management](#). As the data controllers, forces are responsible for deciding how long they need to keep the footage.

Additionally, material which is still subject to any legal proceedings or where it has been used in a recent prosecution must not be used for training purposes. It may be necessary to check this with the sitting judge.

Use by professional standards departments

Complaints about the conduct of BWV users are investigated by the Professional Standards Department (PSD) in accordance with current policies. BWV material is usually obtained and retained for criminal proceedings, but users should be aware that it may also be used as evidence in relation to complaints against police officers and staff.

BWV may contribute to a net reduction in complaints and subsequent disciplinary action, by providing a clear and impartial record of any interaction. This means that when a complaint arises the video record can be used to quickly establish exactly what happened and provide a speedy resolution as part of the complaints process. This provides greater transparency, and allows officers to show that they followed the correct procedure if their actions are challenged.

BWV material that is relevant to the investigation of any complaint must be secured, reviewed and retained by the nominated investigating officer at the earliest opportunity, in line with the parameters of their investigation.

Material not directly relating to the investigation concerned should not be made available to the investigating officer, and open access to any BWV database or library of material will not be granted unless exceptional circumstances exist and authority is granted by the head of the PSD.

As in the prosecution of any offence, forces should create master and working copies of any BWV material used in the investigation of a complaint and retain these in secure storage in accordance with force procedures.

All complaints received from the public about the conduct of any officer or member of staff (including those subsequently withdrawn) must be recorded in accordance with existing national and force procedures.

If a complainant reviews BWV material, forces should record the details in line with force procedures. Other persons on the material should be obscured as necessary.

Where a complaint is dealt with by local resolution, the local supervisor should make a record of the viewing.

BWV users are expected to comply with the College of Policing's [Code of Ethics](#).

Public requests to record

Users may encounter members of the public who specifically request that any encounter or interaction is recorded, even if the user does not feel that there is any evidential reason to do so. Unless there are clear reasons to do otherwise, the user should record such an encounter, but should remind the person requesting the recording that, unless there is an evidential reason to retain the footage, it will be automatically deleted in line with existing local guidelines (but will not be retained for longer than 31 days.)

Section 5 – principle 4 and principle 5

Principle 4 – The operational use of body-worn video must be proportionate, legitimate and necessary.

Principle 5 – Use of body-worn video will be incident specific. Officers will use common sense and sound judgment when using body-worn video, in support of the principles of best evidence.

Operational considerations

Recording an incident – basic principles and techniques

The decision to record or not to record an incident rests with the user. However, users should record incidents whenever they invoke a police power.

Under normal circumstances, all BWV users present at an evidential encounter, regardless of the fact that other BWV users may be present, should record the incident. Users should always take into account the circumstances and the people involved, for example, vulnerable persons.

Failing to record an incident may require explanation in court, although in some instances it is not appropriate to make a video recording. In such cases users should record the fact in their pocket notebook.

Users may not indiscriminately record entire duties or patrols. Recordings must be incident specific (whether or not the recording is ultimately required for use as evidence).

All recordings can be used in evidence, even if it appears to the user at the time of the incident that this is unlikely (eg, a stop and search with a negative result). All recordings should be treated as evidential until it is confirmed otherwise. If it becomes obvious that the recording will not be evidential, unless there are other extenuating circumstances, users should stop recording immediately.

Users should capture as much evidence as possible (including the context of the encounter) and should always try to record as much of an incident as possible. Users should begin recording at the start of an incident or at the earliest opportunity thereafter, for example:

- as soon as users are deployed to an incident
- as soon as they become aware that any other encounter is likely to occur in front of them.

In order to comply with the DPA and HRA, wherever practicable, users should restrict recording to the areas and persons necessary in order to obtain evidence and intelligence relevant to the incident. Users should always attempt to minimise collateral intrusion on those not involved.

The recording process

Starting a recording

At the start of any recording, the user should, where practicable, make a verbal announcement to indicate that the BWV equipment has been activated. This announcement should be captured on the recording and, if possible, should include:

- the date, time and location
- the nature of the incident to which the user is deployed
- confirmation to those present that the incident is now being recorded using both video and audio.

If the recording has started prior to the user's arrival at the scene of an incident, they should, as soon as is practicable, announce to those present that recording is taking place and that their actions and sounds are being recorded. Announcements should be made using straightforward language that can be easily understood, such as:

- 'I am audio and video-recording you'
- 'I am audio and video-recording this incident'
- 'Everything you say and do is being recorded'.

Making a commentary while filming

Some evidential information may take place out of view or hearing of the camera or microphone. It may prove helpful for the user to provide a running commentary detailing evidence not present in the video (eg, distinctive smells such as cannabis) to assist the viewer.

Concluding a recording

Unless specific circumstances dictate otherwise, recording must continue uninterrupted from the moment it starts until the conclusion of the incident or the resumption of general patrolling.

The user should continue to record for a short period after the incident to clearly demonstrate to any subsequent viewer that the incident has concluded and that the user has resumed other duties or activities.

Subject to individual force procedures, the recording of incidents may or may not be concluded when the user moves to another area, such as a custody centre, where other video-recording systems can take over the recording.

Where practicable, users should make an announcement that the recording is about to finish. Prior to concluding recording, the user should make a verbal announcement to indicate the reason for ending the recording. This should state:

- the date, time and location
- the reason for concluding the recording.

Once a recording has been completed, the recorded data becomes police information and is subject to the [Code of Practice on the Management of Police Information](#).

The BWV user must not, therefore, delete recorded material but must retain it as required by MoPI, in relation to managing evidential and non-evidential material. Forces should maintain a full audit trail to protect the subject of the footage and the recorder. Any breach of the code may render the user liable to disciplinary action or adverse comment in criminal proceedings.

Selective capture

The BWV user should record entire encounters from beginning to end without interrupting the recording. There will, however, be occasions when the user may wish to consider interrupting the recording of an incident. In such circumstances the user may decide to start and stop recording at any point during an encounter. This practice is referred to as selective capture.

For example, it may be necessary to stop recording an incident in cases of a sensitive nature or if the incident has concluded prior to the arrival of the BWV user. In all cases the user should exercise their professional judgement in deciding whether or not to record all or part of an incident.

If the user chooses to interrupt or cease recording at an ongoing incident, they should record their decision and rationale (if practicable in the circumstances) by making a suitable verbal statement on the BWV material and also in a pocket notebook or other log.

Selective capture can also be used to describe the process of temporarily stopping and restarting recording in order to bookmark (see **bookmarking**) the recorded material.

Selective capture never involves deleting images. There are no circumstances in which the user can justify unauthorised deletion of any images that have already been recorded. Any such action may result in legal or disciplinary proceedings.

Bookmarking

Bookmarking is a method for separating encounters recorded with BWV to clearly define specific instances or relevant parts of the recording, which then facilitates retrieval or disclosure of the relevant evidence.

While recording an incident, BWV users may encounter and record video or audio evidence from any mixture of victims, offenders or witnesses. During such instances, users may record statements made by victims or witnesses that should not be shown to the defendant (or their representative). For example, a witness may be recorded giving their name and address.

In such circumstances and only if it is practicable for the user to do so accurately and properly, they may stop and start the recording. Whenever a recording is interrupted in this way, the user should make a verbal announcement when the recording is stopped and again when it is restarted, clearly explaining the reason for the interruption.

A bookmarked recording covers the entire incident but contains gaps where recording has not taken place and so is likely to consist of more than one data file. When later saving and preparing their master copy of the recorded incident, users should take care to include all the bookmarked sections of the incident as one complete master recording.

Relying on BWV recordings as evidence and partial recordings

BWV material should be used to corroborate, rather than replace, traditional written statements and users should not rely on BWV for providing their evidence.

Although a BWV recording may provide compelling evidence, it will not necessarily prove all aspects of a case and users must always be prepared to provide written evidence of anything pertinent to the case and not wholly represented by the recording.

Some incidents may be only partially recorded. This may be as a result of the incident not being fully visible to the user or owing to some technical or physical failings in the BWV equipment. Similarly, problems with the equipment or prominent background noises may affect the clarity of the audio recording.

In such instances it is likely that the BWV recording will be incomplete and it may be necessary for the officer to give evidence of anything missing from or not discernable in the recording.

It may not be obvious to the user that such issues have occurred and users should review recorded material as soon as practicable, to check for completeness of the recording.

Should there be a break during the recording of an incident, the user must retain and produce any material that is created and then supplement this with a written statement detailing any other necessary evidence.

If the user becomes aware of a break in recording and it can be rectified quickly they should do so, explaining by verbal statement what happened when the recording recommences. If, however, it is not possible to continue recording, the user should make a pocket notebook entry covering the incident.

If an incident is only partially recorded because of equipment failure, the user should produce the recorded evidence as usual and provide a statement covering the entire incident. This should include the reason, if known, for the equipment failure. If the evidence concerns a serious case, and the reason for failure is not apparent and requires further explanation, it might be necessary to obtain a statement from a suitably qualified engineer. It may also be appropriate that the equipment is sealed and stored as evidence.

Objections to recording

In principle, users are not required to obtain the expressed consent of the person or persons being filmed.

If the subject of an encounter requests that the BWV be switched off, the user should advise the subject that:

- any non-evidential material is retained for a maximum of 31 days only (in accordance with the DPA and MoPI)
- this material is restricted and cannot be disclosed to third parties without the subject's express authority, unless prescribed by law
- recorded material is police information and can be accessed on request in writing in accordance with the FOIA (unless an exemption applies) and is also accessible via a subject access request in accordance with the DPA.

It is then for the user to consider on a case-by-case basis whether or not to switch the BWV off. There should always be a tendency to record (within the confines of legislation) unless circumstances dictate otherwise. An officer who fails to record an incident will be required to justify their actions as vigorously as any officer who chooses to record a similar encounter. However, in all cases recording can only be justified when it is relevant to the incident and necessary in order to gather evidence.

If the user deems it necessary to turn off their BWV but events subsequently develop that require further investigation or proceedings, they should:

- resume recording to capture any potential evidence
- make the appropriate verbal announcements
- record the circumstances in their pocket notebook (in the same way as they would for a partial recording).

Section 6 – principle 6

Body-worn video does not replace conventional forms of evidence gathering (such as written statements and PACE interviews), it supports them.

Limitations

Technology and systems

BWV material provides a reasonably complete record of what its user sees and hears at an incident. There are, however, limitations to the technology and users must be aware that:

- some aspects of an incident that are vital to the evidence for the offence may occur out of camera view
- sound recordings may not be complete or other sounds at the scene may block significant statements by those present
- technical failures or operator errors may hinder the production of the recorded evidence.

Users must, therefore, remain mindful of standard evidence gathering procedures at scenes, including the use of other video and digital evidence gathering devices, and must not rely solely on BWV evidence to support their case. The absence of BWV material in a case does not in any way weaken the strength of conventional evidence used. Officers may be required to explain why, if wearing BWV, it was not switched on at the time of the incident.

Forces must be aware of the technology, support and storage issues associated with BWV, although the precise level and detail of support functions varies according to the type of BWV, and possibly the level of BWV use.

BWV material is recorded digitally and stored on digital media, which requires appropriate management and storage solutions. In considering the most appropriate solution, forces should also be mindful of ongoing CJS reform and the move towards digitising case files and evidence.

The additional technology and evidence production requirements of implementing BWV may require employing or redeploying staff. Wide use of BWV creates a significant increase in the volume of data to be stored and managed.

Use

BWV is an overt recording medium that can be used across a wide range of policing operations. Its use should always be incident specific and justifiable. Officers should use common sense and sound judgement when making a decision to start recording.

The use of BWV is not appropriate in some situations. The following list is for guidance only and is not exhaustive:

- BWV must not, under any circumstances, be used for recording intimate searches or in any other circumstances where persons are in a state of undress.
- Users must respect legal privilege and must not record material that is, or is likely to be, subject to such protections.
- When recording in areas where individuals would have a strong expectation of privacy (for example, in a private residence or during an incident in a public arena such as where someone has been involved in an accident in the street), clear justification would be required for using BWV. Users must consider the right to respect for private and family life (Article 8 of the ECHR) and must not record beyond that which is justifiable, lawful, proportionate and necessary for the evidential requirements of a case.
- BWV should not be used for formal investigative interviews (eg, the ABE interview for evidence-in-chief purposes, or a significant witness interview for the purpose of preparing a statement), nor may BWV be used for interviewing suspects as it would contravene PACE Code C. It is also currently unsuitable for recording interviews with vulnerable or intimidated witnesses and victims.
- Users should exercise care in using BWV where it may cause serious offence, for example, during religious worship.
- Users should refer to the specific guidance on BWV use with firearms and less lethal weapons.

Evidential process

[The Director's Guidance on Charging](#) stipulates the use of the MG11 (witness statement) subject to file type (based on expected plea). In order for BWV evidence to be admissible in court, it is essential that forces follow the principles contained in [Digital Imaging Procedure](#) and [Police Use of Digital Images](#), and consult the local CPS about the equipment and its use. The video/audio record and replay format should be readily accessible through universally available computer software.

Forces must designate master and working copies of evidential material. This preserves evidential integrity throughout the court process.

Evidential statements

The National File Standard specifies the material required for the first hearing. Pocket notebook evidence and the MG11 are required and BWV material should, therefore, be used to corroborate these forms of evidence.

CPS view

BWV could place the conduct of the police witness under intense scrutiny by the magistrates or the jury. This may influence the outcome of cases or subsequent sentencing.

Officers must be careful that any commentary they make relates only to what they are doing or what can be seen. Material the court considers to be prejudicial will not be admitted. Police officers may still be required to give verbal evidence and should not rely solely on a showing of BWV as evidence.

The evidential statement must include details of the audit trail for producing the master copy. In order to assist prosecution and defence solicitors, it is advisable that the statement producing the exhibit contains a summary paragraph outlining the evidential aspects of the incident and the recording. If there is any break in the recording, the user must include the details and the reason for this in their statement.

More than one user may refer to the BWV evidence to confirm that it shows the incident that they are referring to. Their statements could say, for example, 'I have seen the video (exhibit x) and confirm that this is a recording of the incident that I attended.'

If a recording covers the whole incident, it is not essential for the BWV user to produce a written statement detailing the entire nature of the interactions contained in the material, as this is avoidable duplication. The user's recollection, as expressed in their statement or pocket notebook entries, should be confined to parts of the incident that are not properly shown or heard on the BWV material.

When producing their statement all users involved in an incident should consider the BWV material and then add to that their recollection of any other parts of the incident that they witnessed. Each case should be considered on its merits to enable the user to give their evidence in the most effective manner.

For some minor offences, such as being drunk and disorderly, the expert opinion evidence requires a number of observations (such as smell of intoxicants, eyes glazed) to prove drunkenness, but this may not be shown adequately by the recorded BWV evidence. The user may, therefore, decide not to use the BWV material, and instead provide the evidence in a short written statement. The BWV evidence should be retained as unused material.

Some offences, such as breaches of the Public Order Act 1986, require evidence that a person was, for example, put in fear of violence. This evidence must still be included in the statements of those who were present and, if applicable, the BWV user. If appropriate, the user can add a summary of what the BWV material shows (making it clear that they are summarising that material and not providing their recollection). As the BWV recording will contain only what is in the range of the camera and sound that is picked up by the microphone, it may be appropriate to add further information and a statement from the user saying what is not visible or audible from the footage.

The CPS is content that an officer is entitled to view their recorded footage at any time and for any reason. However, this must not be confused with any IPCC policies on not making collective notes/collusion.

Producing a statement after reviewing first account evidence

BWV may be used to capture a first account (see **Witness first accounts**), and witnesses may be permitted to review their account prior to making and signing any written statement. Care must be taken to ensure that witnesses are not permitted access, in any way, to any aspect of the recording other than their own first account. Their statement should also refer to the fact that they have viewed the recording of their first account. This applies equally to police officers and staff, who may refer to BWV material prior to making any statement.

Officers should:

- adhere to the golden hour principles
- not ask leading questions
- consider the appropriateness of using BWV in the circumstances presented
- follow usual operating procedures.

Transcription

A transcription should only be required under the direction of a court in a specific case. For example, if the sound is of a poor quality, or if the speech contains a high degree of slang or is in a foreign language, the services of a translator should be obtained.

Note: if a user is asked to transcribe footage outside these circumstances, they should challenge the request and ask if the footage forms part of the prosecution case and if it is key evidence.

Even when the material has been transcribed, the video contains visual information such as actions and gestures that put the language into context. The video exhibit should, therefore, still be shown in conjunction with the written text.

Enhancement

If the quality of the original recording (video or audio) requires enhancement, forces should use the working copy to do this. After the process, forces must securely retain a copy as a post-enhancement master version of the incident.

Statements dealing with the technical enhancement process are required and an audit trail must be maintained.

Submitting material for a charging decision

Prosecutors should view the BWV material relating to the incident when making charging decisions. If this is not possible (for example, owing to technical limitations), the prosecutor making a charging decision may consider accepting a summary of what can be seen on the BWV material in line with **Crown Prosecution Service (2009) Use of Summaries of Visually Recorded Evidence in Cases Referred to the CPS for Charging Decisions**. This allows CCTV evidence to be summarised where it is not possible to supply the CPS with access to view the CCTV at the time a charging decision is sought.

Summaries should be provided on the MG3 (report to crown prosecutor for charging decisions/investigative advice or a separate report attached to the MG3, and submitted with the case papers to the prosecutor making the charging decision. The summary should be a report made by the person viewing the material and be a factual account of what can be observed, including descriptions and actions of those involved, and any relevant reaction of others present.

It is inappropriate and unacceptable bad practice to send large volumes of recorded information to the CPS without indicating where in a particular recording the relevant evidence exists. Each and every recording must also include a reference point for the start and end of the relevant parts of the material, and indicate the extent to which other parts of the material have been viewed.

Note: material that is dispatched to the CPS with no reference points for viewing will be returned to the police for this to be undertaken.

Material that is not to be used must be clearly scheduled as unused material, making clear exactly which parts are unused.

Although a summary of the evidence contained in the recording is normally sufficient for the routine disclosure required as part of the early indication of the prosecution case (advance information), evidential parts of recordings have to be disclosed on the defence for a known not guilty plea, or for trial where the recording is part of the prosecution case or it is required by the defence. The recordings may also have to be disclosed as part of the unused material processes.

Any recordings for service must not include sensitive data such as the addresses of witnesses. These recordings must be sent to the CPS properly edited and marked for service on the defence accordingly.

Section 7 – principle 7

Forces will consult locally with their communities on the use of body-worn video.

Community engagement

Users must be aware of their responsibilities of fair processing under the DPA, see **Section 2 - principle 1**.

Privacy impact assessment

Although there is no specific legal requirement for forces to carry out a PIA, it is strongly recommended by the Information Commissioners Office (ICO) and [Surveillance Camera Code of Practice](#).

Forces should also carry out some form of public consultation in respect of how they will use BWV, to ensure compliance with the DPA and Article 8 of the ECHR. Such consultation can be part of a PIA.

The Home Office, in conjunction with the ICO, have produced a PIA template and guidance notes, available on the [Digital First](#) POLKA community.

Health and safety

Individual force risk assessment policies and procedures vary and should take into account local policy and procedures. Forces should consider the different types of deployments of BWV and take appropriate action to manage any identified risks.

Public sector equality duty

The decision by a force to use BWV is considered as a function for the purposes of the Equality Act 2010. Forces must, therefore, be able to demonstrate due regard to the public sector equality duty. In order to do this, forces are expected to work with members of the public who reflect local diversity to ascertain any impact (positive or negative) that the use of BWV will have. Forces should undertake equality analysis locally to assist decision making at a strategic level. For advice on the public sector equality duty, refer to guidance from the [Government Equalities Office](#).

Forces may wish to focus on the impact that the use of BWV has on:

- satisfaction and confidence levels between different communities
- volume of hate crimes or incidents
- volume of domestic abuse crimes or incidents
- number of complaints in relation to the use of stop and search.

(This list is not exhaustive.)

Annex A – asset management

Introduction

The issue of BWV equipment represents a significant investment for a force, both in terms of the equipment itself and the introduction of new processes to gather and present evidence.

The equipment has the potential to gather and store personal information and evidence of offences. Forces should, therefore, ensure that the equipment and the data gathered have appropriate security processes.

In common with other similar equipment such as personal radios and mobile data terminals, forces should adopt processes to cater for secure storage, booking cameras in and out, downloading data and removing data from devices.

Forces must maintain the integrity of the end-to-end process to comply with the relevant regulatory framework.

Management and maintenance

In many cases BWV equipment is provided with an integrated system for automatically downloading and deleting video files, management of removable media and battery charging. Where such integrated solutions are not provided, forces should ensure that suitable and robust manual processes are in place to ensure the integrity of data and that the equipment is available for use by officers, with the battery fully charged to prevent equipment failure.

In addition, forces should provide advice and equipment to help ensure that the equipment is kept clean and serviceable and, in particular, that the camera lens is cleaned regularly.

BWV recordings include information on the time and date the video was taken. This is an important element in maintaining the integrity of evidence, and users should consider how best to ensure that the device's date and time reference is always synchronised.

Forces must consider the physical security of devices, both in and away from their own premises, to ensure the integrity of data captured.

Training for BWV users

Users should receive training in the relevant technical aspects of the specific equipment being used. This includes, for example, assembly (where necessary), day-to-day use, how to keep devices and data secure, how to download data to force systems and how to delete old records from the device.

In addition, a training package should include:

- legal considerations
- when to commence and cease recording, recording an incident and creating master and working copies
- evidential continuity
- health and safety
- diversity issues
- the importance of identifying recordings for retention or deletion
- any potential use by professional standards departments or for staff development and monitoring.

Forces should implement a policy which restricts the issue of BWV equipment to suitably trained users only.

Equipment issue

Forces should adopt a suitable process to secure and record the day-to-day allocation of BWV equipment to operational officers, either on a pool or personal issue basis.

Some equipment may feature inbuilt electronic systems that record to whom the device is allocated and assist in automating the transfer of data to force systems. Where this is not available, forces should introduce suitably robust processes to manually record equipment issued for operational use.

Annex B – operational crib sheet

1. All BWV users present at an evidential encounter, regardless of the fact that other BWV users may also be present, should record the incident.
2. Be confident in describing what you are doing and tell people they are being both visually and audibly recorded.
3. In principle there is no requirement to obtain the express consent of the person or persons being filmed.
4. Always consider what you are recording and how it might be presented or shown in court.
5. If you are recording, only ask questions of victims or witnesses that are absolutely necessary.
6. When presenting BWV recorded material, be mindful of the requirements of investigators and the CPS. Provide them with a summary of what is relevant.
7. Always consider the requirement of disclosure.
8. The CPS is content that an officer is entitled to view their recorded footage at any time and for any reason. However, this must not be confused with any IPCC policies on not making collective notes/collusion.
9. Recorded material must not be deleted by the BWV user and it must be retained as required by the MoPI Code of Practice.

Additional points of note

Prior to use, make sure that the battery is fully charged and there are no existing media files still on the device.

To maintain evidential continuity of any recorded material, make sure that the camera is assigned to you as the user and producer of any digital evidence.

Make sure the device is securely attached to your body armour or equipment, ensuring the lens is pointing in the required direction for optimal capture.

You should record all interactions where there is a possibility of obtaining evidence. As a simple rule, if you are recording information in either a pocket notebook or on some other document, your camera should be on.

If practicable, try getting into the habit of explaining why you have turned on the camera. This places your recorded event in context, when being watched by third parties.

Consider explaining your thought process, risks factors and decisions by talking to yourself on the camera.

Consider bookmarking sections of your recording to make it easier for retrieval and viewing by third parties.

At the conclusion of any recorded event it is good practice to explain why you are turning off the camera.

Avoid asking questions of victims and witnesses beyond those that are absolutely necessary. Any unnecessary or leading questions captured on BWV could be detrimental to a future prosecution case.

Consider the necessity to record first accounts from vulnerable or intimidated victims or witnesses if they are likely to have their evidence produced in a subsequent ABE interview.

As soon as practicable, download all recorded material onto your force IT system using the approved software only.

If your recorded material forms part of an investigation, it will need to be managed in line with the guidance on the management of police information. Not all recorded material needs to be saved as evidential. Consider the necessity for its retention.

Remove all the recorded material from the BWV camera once it has been transferred to your force IT system.

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