

BODY WORN VIDEO

(Pulled from Archive on the Policy Ap 08.07.25)

Body Worn Video (BWV)

Policy and Procedures for Operational Use & Image Processing

Contents

SECTION 1- OVERVIEW	3
SCOPE	3
OVERT USE	3
DEPLOY WITH BWV	3
PROFESSIONAL JUDGEMENT AND MANDATED USE	3
SECTION 2 – POLICY	4
FAIR PROCESSING	4
RECORDING AN INCIDENT	4
USE OF BWV IN PRIVATE PREMISES	6
INITIAL CONTACT WITH VICTIMS, WITNESSES AND SUSPECTS	7
Victims and Witnesses	7
Initial Account at the Scene	8
Incidents where the nature of the allegation is clear prior to the arrival of police at a scene	8
Incidents where the nature of the allegation is NOT clear prior to the arrival of police at a scene	9
Initial Account Elsewhere (Not at the Scene)	9
Reviewing Initial Account Recordings Prior to an Investigative Interview	9
Clarification	9
Suspects	10
Planned Arrests	10
Unplanned Arrests	10
BWV Recordings & Investigative Interviews	10
Review	10
Pre Interview Briefing with a Suspect's Legal Adviser	10
Playing BWV images within the Suspect Interview	10
STOP AND SEARCH	11
SCENES OF CRIME AND SEARCHES	11
EVIDENTIAL STATEMENTS & FILE PREPARATION	12
POLICY IN RELATION TO TASER, FIREARMS, AND PUBLIC ORDER	13
Taser	13
Firearms	13
Public order	13
LEGAL INFORMATION.....	13
Data Protection Legislation	13
Police And Criminal Evidence Act 1984	15
Identification Procedures	15
SECTION 3 – PROCEDURES	15
DATA INTEGRITY	15
RECORDING	16

Partial Recordings	16
IDENTIFICATION ON EVIDENCE.COM	16
MARKING AS EVIDENTIAL/RETAINED	17
RESTRICTED FOOTAGE	17
SHARING OF RECORDINGS AND/OR IMAGES	17
INTEGRITY OF EVIDENCE	18
PRODUCTION OF EXHIBITS	18
FAULTY / LOSS OF EQUIPMENT	19

SECTION 1- OVERVIEW

SCOPE

The policy section is reflective of the *National Policing Position Statement: Using Body Worn Video to record Initial Contact with Victims, Witnesses and Suspects (2015)*.

It is not intended to cover every eventuality and operators must use their professional judgement and relevant training to make operational decisions, based on the National Decision Making Model (NDM).

Body Worn Video (BWV) devices are now personally issued to officers. The document outlines the requirements for their operational use and the subsequent processing of any images captured as a consequence together with legislative information governing their use.

OVERT USE

When one considers the use of BWV, the overriding principle is that they are used **OVERTLY**. It is not sufficient to be in uniform, all operators must announce that they are recording an incident.

If the operator is not wearing clearly overt police uniform then they **MUST ALSO ANNOUNCE AT THE SAME TIME AS RECORDING THAT THEY ARE A POLICE OFFICER**.

DEPLOY WITH BWV

In relation to uniformed officers (including Specials and PCSOs), trained BWV operators **MUST** carry a device when being deployed on operational duties and supervisors are required to ensure compliance.

Authorised Taser Officers (ATO) **MUST** be deployed equipped with BWV whilst performing that role. An ATO will not book out a TASER if for whatever reason they do not have access to their personal use BWV.

There is a specific Policy with reference to BWV and Authorised Firearms Officers (AFO).

PROFESSIONAL JUDGEMENT AND MANDATED USE

Recordings using BWV should be incident-specific: operators should not indiscriminately record entire duties or patrols. A rule of thumb guide as to whether to record or not is that if the incident would normally be the subject of a pocket notebook entry then a recording should be made.

The overriding principle around the use of BWV remains professional discretion however Staffordshire Police has taken the decision that the following areas require specific consideration and the use of BWV in these circumstances is **MANDATED**:

- Domestic abuse
- Stop and Search (**To include ALL powers of search**)

- Any Use of Force / Anticipated Use of Force this especially includes 'Spit Guards' the process concerning which must be recorded from the point of preparing to fit one to the point of removal.

It will be for the officer involved to justify why such a recording has not been made. Although covered in more detail later good practice dictates that the BWV devices should be switched on at the earliest opportunity.

SECTION 2 – POLICY

FAIR PROCESSING

It is a legal requirement under the Data Protection Legislation to provide 'fair processing information' therefore the BWV operator should, where practicable captured on the recording, make a general verbal announcement that recording is taking place and to include the time, date, location and the rationale for the recording.

The announcement should be made so that all persons who could potentially be recorded are aware that they are being recorded. The spirit of the Regulation of Investigatory Powers Act (RIPA) 2000 should also be considered so that collateral intrusion is minimised and only those persons and areas that are required for evidential and intelligence purposes are captured.

The recording must continue throughout the incident unless the issue of collateral intrusion applies; book-marking separate recordings would then be more appropriate. An announcement should if practicable be made (captured on the recording) to indicate the ending of the recording.

The importance of the verbal announcements by operators cannot be overstated. BWV is only for OVERT use and not for COVERT surveillance purposes.

RECORDING AN INCIDENT

In the majority of cases, the decision to record or not to record any incident remains with the trained operator. However there is an expectation that if the incident would normally be the subject of a pocket notebook entry or evidenced in another format then a recording will be made, whether these are ultimately required for use as evidence or not.

Officers must be mindful that failing to record an incident may be scrutinised and it will be for the officer to justify their actions. If this culminates in a court hearing it may require explanation in court as to why a recording was not made.

Therefore if an operator is present at an incident or encounter they, (using their professional judgement in conjunction with the NDM and the requirements of obtaining the best available evidence) should seriously consider recording the incident. That said recordings should be incident-specific: operators should not indiscriminately record entire duties or patrols.

Notwithstanding that the decision to record an incident is at the discretion of the trained operator if however, they are directed by a supervisor to record all or part of a particular incident then this should be complied with.

The use of BWV has however now been **MANDATED** in the following circumstances:

- Domestic abuse
- Stop and Search (including ALL powers of search)
- Any Use of Force / Anticipated Use of Force

If the encounter is NOT recorded there must be a well evidenced and robust rationale as to why such encounters were not recorded and what prevented officers from commencing the recording at the earliest opportunity. This rationale must be recorded in the individual operator's pocket note book and on forms SDF2 for Magistrate's cases and form MG6E for Crown Court cases.

It is vitally important to commence the recording early to capture the best evidence, to negate complaints and not to compromise officer's use of PPE.

If when attending an incident a BWV operator knows or believes that a complaint against Staffordshire Police is likely to be made then the incident should be recorded and the recording be categorised appropriately so that it is retained for the Performance and Standards Unit.

IMPORTANT - It is vitally important to record as much of an incident as possible.

Recording should begin at the earliest opportunity at the start of an incident, to prevent or minimise the incident escalating to a point whereby it is impracticable to use BWV.

Operators should commence recording:

- When initially deployed to an incident by the control room, a supervisor or other source;

or

- As soon as the operator becomes aware that any other encounter is likely to be the subject of a pocket notebook entry. If the recording has commenced prior to arrival at the scene of an incident, the operator should as soon as is practicable, announce to those persons present that recording is taking place and that actions and sounds are being recorded. **As previously outlined this is the major contributory factor to the use of BWV being used in an OVERT manner.**

Wherever practicable, operators should restrict recording to the areas and persons necessary in order to obtain evidence and intelligence relevant to the incident; they should attempt to minimise collateral intrusion on those not involved.

In general the BWV operator should record entire encounters from beginning to end without the recording being interrupted; however, the nature of some incidents may require consideration whether there is justification to continue recording the entire incident.

For example, the recording may be stopped in cases of a sensitive nature. In all cases the operator should exercise their professional judgement in deciding whether or not to record all or any part of an incident. In cases where the operator does interrupt or cease recording at an ongoing incident, they must record their decision either on camera (if there is time/opportunity) or in their pocket notebook and this must include the grounds/rationale for making the decision.

USE OF BWV IN PRIVATE PREMISES

The following relates to the recording in private premises, however if the incident is related to domestic abuse, there is a likelihood of officers using force or powers of search then the use of BWV is MANDATED, with the appropriate caveats.

Recording in private premises should not be done as a matter of routine but if a BWV operator is called to attend a private premise, provided this is an incident that would normally be the subject of a pocket notebook entry, the officer should commence to

record the incident using the BWV in the same way in which any other incident is recorded.

Operators should be mindful of the rights of individuals to respect for a private and family life under Article 8 of the European Convention on Human Rights and/or practices linked to particular faiths such as where a female may not have a face covering within the home and thus recording may not be appropriate.

Officers may find that just one party may object to the recording taking place. In such circumstances officers should consider continuing to record while explaining the reasons; these reasons might include:

- that an incident has occurred requiring police to attend;
- that the officer's continued presence is 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 that the video evidence will be more accurate and of a higher quality and therefore in the interests of all parties;
- that continuing to record would safeguard both parties, with a true and accurate recording of any significant statement made by either party and of the scene;
- that the incident may reoccur in the immediate future; or that continuing to record will safeguard the officer against any potential allegations from either party.

It is therefore recommended that officers continue to record where incidents are occurring or allegations of a criminal nature have been made.

The recording **SHOULD CEASE** if it becomes clear:

- That the use of the BWV is causing an escalation of the incident and/or is obstructing/delaying the peaceful resolution of the incident;
- Is causing additional distress to the victim / witness
- That the controller of the premises strongly and legitimately objects;
- The incident is not a police matter

In such circumstances it is recommended that the officer make a verbal announcement that the recording is being stopped prior to actually stopping the recording process.

The officer should also announce that, if any incident begins while the officer is still present, then recording will resume immediately.

In relation to incidents of repeat domestic violence, even though a particular incident may not in itself amount to evidence for court any BWV images recorded should be categorised appropriately so that they are retained in order to protect victims and their children or to provide evidence for courts at a later stage such as for applications for non-molestation orders.

USE OF BWV WITHIN A MENTAL HEALTH UNIT

The following relates to the recording in a mental health unit which mandates that an officer must take a body worn video camera with them whilst assisting staff at the location.

When police are called to assist professionals in a mental health unit, it is mandated that their attendance is recorded on body worn video. This ensures that a reliable and accurate account exist in relation to any force used. Evidence suggests that the presence of body worn video on police officers can help in de-escalating the situation by offering the patient the reassurance that there is a record of events. This

transparency is beneficial for both police officer and patients. In the unlikely event that an officer decides not to use their BWV in such circumstances, they will be accountable for justifying their rationale.

INITIAL CONTACT WITH VICTIMS, WITNESSES AND SUSPECTS

This element of the policy is taken directly from the *National Policing Position Statement: Using Body Worn Video to record Initial Contact with Victims, Witnesses and Suspects (2015)*.

Victims and Witnesses

The purpose of an initial account is to inform initial police action in respect of an allegation or an incident. Any initial questioning should be intended to elicit a brief account of what is alleged to have happened; a more detailed account should be left until the formal investigative interview takes place. Such a brief account has to ascertain the nature of what has occurred and should include the following:

- Where and when the alleged incident took place and who was involved or otherwise present (unless this is already clear);
- Any early investigative information required to protect life, protect property, identify offenders and secure and preserve evidence;
- Anything that might result in harm to the witness or others; and
- Anything that might give rise to witness intimidation.

In these circumstances any early discussions with the witness should, as far as possible, adhere to the following basic principles:

- Listen to the witness;
- Do not stop a witness who is freely recalling significant events;
- Where it is necessary to ask questions, they should, avoid leading or multiple questions;
- Ask no more questions than are necessary in the circumstances to take immediate action;
- Where a BWV recording is made, notes should be made of the wider context, including the details of the other people present at the scene (whether recorded by BWV or not);
- Where a BWV recording is not made, in line with current practice a comprehensive note of the discussion should be prepared, taking care to record the timing, setting and people present as well as what was said by the witness and anybody else present (particularly the actual questions asked of the witness).

Initial Account at the Scene

Incidents where the nature of the allegation is clear prior to the arrival of police at a scene

The decision as to whether to start recording on a BWV immediately on arrival should take account of the witness's circumstances and the nature and sensitivity of the allegation if they are known before the police arrive. Where the victim of an alleged offence is a child under 18 or a vulnerable adult¹ a BWV should not be used to record their initial account although there may be circumstances where the age and/or vulnerability is not immediately apparent. The explicit and informed consent of victims of serious sexual offences should be obtained before their initial accounts are

recorded on a BWV. Where the emotional or physical condition of a victim to a serious sexual offence is such that there is any doubt about their capacity to give informed consent a BWV should not be used.

1 “Vulnerable” adult witnesses are defined by Section 16 Youth Justice and Criminal Evidence Act 1999 as anyone with a mental disorder, learning disability or physical disability/disorder impacting on their ability to communicate.

Initial accounts from cases involving adult victims who are neither vulnerable nor victims of serious sexual offences should only be recorded where the BWV user considers it appropriate and where it is practical to do so but it has to be remembered by officers that there will be circumstances (such as domestic abuse and violence) where the distressed nature of the victim and the ability to record the visible injuries may strongly corroborate the allegations and assist the investigation.

Incidents where the nature of the allegation is NOT clear prior to the arrival of police at a scene

In situations in which the nature of any allegation is unclear but the apparent nature of the incident is such that a BWV has been switched on when police arrive at a scene those present should be clearly told that recording is taking place. If an allegation is then made the BWV user should listen to what the witness says without interrupting them. If further questioning of a victim is required this should be minimum questioning as necessary and for clarification only.

Initial Account Elsewhere (Not at the Scene)

Initial accounts from victims and witnesses should not usually be recorded by BWV other than at the scene of an incident or an alleged offence.

Reviewing Initial Account Recordings Prior to an Investigative Interview

Investigators should review the BWV initial account prior to the formal victim/witness interview to assist in the planning process. Where an interviewer reviews the BWV recording for this purpose they should avoid it exerting an inappropriate impact on the subsequent interview, including the style of the questions they ask.

Victims and witnesses should not view BWV recordings of their initial accounts prior to an investigative interview because any subsequent challenge to its integrity may render the interview inadmissible. Challenges to the integrity of an initial account can arise for a variety of reasons including other witnesses being present or being within hearing of it and thus being in a position to influence it and the use of leading questions or inappropriate interview techniques by the BWV user or other police personnel present. In these circumstances it could be argued that witness’s memory was tainted by viewing the recording and that it exerted an adverse impact on the reliability of their recall during the interview as a consequence. The specialist interviewer will have to make an informed judgement of what to disclose of the BWV detail as part of their victim/witness interview strategy.

Clarification

If there are any inconsistencies or omissions between the account given by the victim/witness on the BWV and their account during the subsequent interview consideration should be given to addressing it towards the end of the interview in accordance with paragraphs 2.161 to 2.167 of *Achieving Best Evidence in Criminal Proceedings; Guidance on Interviewing Victims and Witnesses, and Guidance on using Special measures* (Ministry of Justice 2011).

Suspects Planned Arrests

Every arrest brings with it potential risk and complexity and as such the default position should be the use of a BWV to record anything that is said or done by the suspect at point of arrest and caution. This will ensure an accurate and reliable record is made of any significant statement that the suspect makes prior to their arrival at the custody office. In the unlikely event that the officer decides not to use BWV during an arrest, they will have to justify not using it.

Unplanned Arrests

There will be those occasions when police users conduct unplanned arrests as they attend an incident. Wherever possible BWV should be used and when the circumstances and nature of the arrest allow the recording to be activated.

BWV Recordings & Investigative Interviews Review

It is essential that any BWV recording of the arrest is reviewed by the interviewers prior to the formal interview taking place to ensure the accuracy of anything they report either during the pre-interview briefing with the suspect's legal adviser or during the interview itself.

Pre Interview Briefing with a Suspect's Legal Adviser

The ACPO National Policing Position Statement on Pre-Interview Briefings (June 2014) gives clear guidance on how to approach Pre-Interview Briefings including what to disclose and why. There is no requirement for investigators to disclose anything prior to interview and careful consideration must be given to ensure that a Legal Adviser is suitably briefed, but a suspect is not given so much information that they are able to concoct an account to match the facts. BWV recordings are no different to any other evidence in the case and it is the investigating officers' responsibility to decide if a recording will be included in the Pre-Interview Briefing to the Legal Advisor. This is a matter for the investigating officer to decide upon and any decision will need to be carefully thought through and documented in the interview strategy.

Playing BWV images within the Suspect Interview

There must be a clear investigative reason for showing a suspect a BWV recording during the interview. For example, it may be valid to show the recording during the interview where there is a dispute as to what was said or done at point of arrest by the suspect or during the journey from there into the location at which they have been detained. This is a matter for the investigating officer to decide upon in line with their suspect interview plan.

When consideration is given to showing an initial account from a victim/witness that has been recorded on a BWV the impact upon all individuals concerned within the investigation should be taken account and the rationale of adopting such an approach should be documented. Any such disclosure must take account of the fact that the BWV recording does not represent the detailed victim or witness interview, but may well provide important detail that it is right to show to the suspect as part of the interview process.

STOP AND SEARCH

When uploading footage to evidence.com there is an option to select Stop and Search as the evidence type and it is important that this is used for all Stop and Search recordings.

The conduct of any 'stop and search' process must comply with the relevant legislation and codes of practice. They must be carried out with due regard to the sensitivities of the person being stopped and any local community tensions surrounding the use of such powers by police.

Recording of such encounters is MANDATORY however searches using BWV must not be carried out if the search is an 'intimate' or strip search and if the search requires removal of more than outer clothing.

A BWV recording does not replace the need for the formal written 'record of search' to be completed by an officer. BWV operators are reminded that although officers conducting a stop and search must ask for personal details, persons searched are not obliged to give their name, address and date of birth to the officer. In such cases, officers must record a description of the person searched as part of the search record and BWV can assist with this.

It should be noted that on the 'record of search' there is a specific box where the officer must indicate whether the encounter has been recorded using BWV.

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

Benefits of recording a stop and search encounter with a BWV:

- Records the conduct of the officer during the search, therefore safeguarding both parties and protecting the officer from false allegations;
- Enables the officer to secure the best possible evidence of any offences that are disclosed during the search;
- Obtains an accurate image/description of the subject;
- Accurately records any disclosures made by the subject.

SCENES OF CRIME AND SEARCHES

An additional use of BWV could be to record the location of objects and evidence at the scene of a crime or during searches. This can be particularly beneficial in following the senior investigating officer an opportunity to review scenes of serious crime or effectively recording the positions of vehicles and debris at the scene of a serious road traffic collision. 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.

For instance when conducting a premises search, the BWV can be used to show the conduct of the search, to confirm where items were found and to record significant statements made by persons present at the scene. This could greatly assist the completion of search logs and the evidence presented at court will be enhanced.

A specific example of this is the use of BWV to capture images from CCTV screens and mobile phones etc. Whilst such practise is not prohibited, it does not remove the need for the officer to seize the original evidence.

IMPORTANT – the use of BWV at a crime scene has its benefits but officers must be mindful that it is just one aspect of the investigation process and capturing images must not be at the expense of or in place of forensic examinations, other scene management and evidence gathering strategies. Therefore care must be taken not to contaminate scenes or interfere with forensically relevant samples that may exist.

EVIDENTIAL STATEMENTS & FILE PREPARATION

Evidential is when the material is required as evidence in any court proceedings (including but not limited to Magistrates, Crown Court and Coroners Courts) and includes unused material.

An incorrectly held belief by some operators is that by using BWV equipment they are able to produce a 'perfect memory' of everything they saw and heard at the incident they have attended. Operators should be mindful that the recording contains only images and sound within the range of the device and may not capture everything that the operator saw, heard etc.

There may have been speech and visible issues not captured by the device. Also, some offences, such as breaches of the Public Order Act 1986, require evidence that a person was put in fear. This evidence must still be included in the statements of officers who were present including the BWV operator. However, any video recording of an incident is likely to provide better evidence than reliance solely on an officer's recollection and subsequent note or statement making.

If the recording covers the whole incident, it is not essential for officer(s) to produce a written statement detailing the entire nature of the interactions contained in the video footage, as this is avoidable duplication.

If two officers are present at the same incident and one of the officers records the whole incident while the other actually deals with the incident, the resultant recording can be utilised as the evidence for both officers as long as it shows the entire incident. The recording officer should also make notes of the incident to cover any additional points that may be outside the view of the BWV as well as all evidential information required in the event of technical failure.

As it is recommended that each incident is recorded in its entirety, from the time of deployment to the conclusion if there is any break in the recording, then the details and the reason for this must be included in the officer's statement.

The existence of BWV in a case must be recorded on the form MG5 together with a précis of its content and whether it was shown to the offender(s) either on interview or at another stage.

POLICY IN RELATION TO TASER, FIREARMS, AND PUBLIC ORDER

Taser

Authorised Taser Officer and Taser in relation to BWV are referred to in the body of this document. Further information concerning Taser is available on the Policy Database in the Force procedure entitled "Use of Force – Taser".

Firearms

Please refer to the Policy Database - **Operational Procedures for the use of BWV by Armed Officers and by Dog Support Officers**

Public order

There is no specific policy in relation to the recording Public Order incidents. In summary however current recommendations for Public Order incidents are that BWV is to be used only for face to face interactions with the public and not for more general crowd monitoring. More suitable evidence capture for crowd monitoring includes dedicated EGT cameras and CCTV.

LEGAL INFORMATION

Data Protection Legislation

Domestic processing of personal data for law enforcement purposes is currently governed by the Data Protection Act 1998 and the Criminal Justice and Data

Protection (Protocol 36) Regulations 2014. The GDPR sets out six data protection principles which apply to personal data and require that:

1. processing be lawful and fair;
2. collected for specified explicit and legitimate purposes;
3. adequate, relevant and limited to what is necessary;
4. personal data be accurate and kept up to date;
5. personal data be kept in a form which permits ID of data subjects for no longer than is necessary, and
6. personal data be processed in a secure manner.

It is therefore a requirement to ensure that personal data is “fairly processed” and meets the requirements of the first principle, as follows:

- There are legitimate grounds for collecting and using the personal data;
- The data is not used in ways that have unjustified adverse effects on the individuals concerned;
- The intended use of the data is clear and transparent;
- Personal data is only used in ways they would reasonably expect;

and

- Nothing unlawful is done with the data.

As a general rule, where an officer is clearly carrying or wearing a BWV, the Information Commissioner’s Office would consider that Principle 1 (fair processing requirements) has been satisfied:

- When using BWV, officers should ensure that ‘fair processing principles’ are complied with;
- Officers should, where possible/practicable, announce to the subject(s) of an encounter that video and audio recording is taking place using BWV;
- Recordings should commence at the start of any deployment to an incident and should continue uninterrupted until the incident is concluded, either because of resumption of normal patrolling or because recording has commenced through another video system (e.g. at a custody suite);
- Recordings should not be made of general patrolling duties unless this is part of a specific operation (e.g. public order duties at football matches);
- Access to recordings must be controlled and only persons having the operational need’ to view specific incidents may view them;
- All footage recorded by the BWV will be retained in accordance with the data protection principles. Non-evidential recordings will be automatically deleted by the system after 31 days (as per NPCC guidelines), however at any time during this period the film can be marked as evidential and it will be retained.
- A record must be made of the destruction of any non-evidential recording;
- Prior to disposal, all reasonable steps must have been taken to ensure that the images are not required as evidence in any case under investigation;
- Subject access will be available until such time as the film is deleted;

Evidential footage must be retained in accordance with MoPI.

Police And Criminal Evidence Act 1984

Section 64A (PACE) (as amended by Section 116 of the Serious Organised Crime and Police Act 2005¹⁵) permits a person to be photographed, with or without their consent, by a constable elsewhere than at a police station. The power is applicable if the person has:

- Been arrested by a constable for an offence;
- Been taken into custody by a constable after having been arrested for an offence, by a person other than a constable;
- Been made subject to a requirement to wait by a CSO;
- Been issued with a notice to leave under Section 35 of the ASB, Crime & Policing Act 2014;

or

- Been issued with a Penalty Notice for Disorder or a Financial Penalty Notice by a constable, CSO or accredited person.

Within Section 64A the definition of a photograph includes a moving image (i.e. footage captured by a BWV). Other circumstances in which such footage might be used to record images are not covered by PACE, but there is also no provision within PACE that specifically prohibits the taking of photographs (whether moving or still) without a person's consent.

Identification Procedures

Code of Practice D of PACE relates to the identification of persons by police officers and includes the use of video identification. If any BWV footage captured by the police is to be used to assist with the identification of suspects, then officers must ensure that the Code is followed.

SECTION 3 – PROCEDURES

DATA INTEGRITY

For integrity purposes operators of BWV devices cannot delete recordings either from the device itself or following it being uploaded. All images whether required for evidential purposes (see later) or not, or recorded accidentally will be held on the device until it is uploaded onto evidence.com and if they are not marked as evidential they will automatically be deleted from the server by the programmed software. Operators should therefore be mindful of the use of BWV and only use it for its intended purposes as set out in these procedures.

RECORDING

The microphone on the BWV device is sensitive so as to capture all speech relative to the images in view. Unfortunately this also means that police radio traffic may be captured. BWV operators should where practicable use earpieces to their own radios to minimise any such intrusions and be mindful of colleagues nearby who may not be using earpieces.

Partial Recordings

There may be occasions where an incident is only partially recorded, such as through technical failure, the equipment being knocked, covered or dislodged during a struggle or through the nature of the incident where the BWV view is restricted. There may also be occasions where the sound recording is unclear or verbal

responses are difficult to hear because of other more prominent sounds such as police radio traffic or noise created by strong winds.

A partial recording will not in itself cause a case to fail at court, but other evidence will be needed to prove the case to the required evidential standards. In such cases the operator must retain and produce any recording that is created and then be able to provide a statement detailing the other necessary evidence. Operators of BWV devices must therefore ensure that they gather and retain evidence through normal (non-video) means and must not become reliant on video recording for the sole provision of their evidence.

Similarly, the existence of a recording will not in itself prove all aspects of an offence, and operators must be mindful to note (and be able to give evidence of) factors not visible in the recording, such as emotions or details that occur outside the range of the BWV.

IDENTIFICATION ON evidence.com

Each recording must be identified on evidence.com by recording at least one or a combination of any of the following:

- Category
- Incident ID (Storm Ref / Suitable reference)
- ID field – Operation name if applicable
- Description

To allow footage to be easily identified and located, It is vitally important that all BWV footage has an identifier (as above) allocated to it by the recording officer.

MARKING AS EVIDENTIAL/RETAINED

The operator is responsible for marking each recording into a category.

Uncategorised recordings will automatically be deleted from the system after 31 days. Those marked with a category prevent deletion. Recordings marked with a category must have an identifier as per the previous section allocated to it by the recording operator.

Evidential types will affect the storage period of the footage.

Operators should be sure of the status of recordings when deciding which ones may be required for future use. It is responsibility of the operator/reviewer to correctly assess the evidence types in evidence.com.

If an incident is recorded using BWV and a STORM serial has been commenced then the use of BWV should be included on the 'incident line'. There is however, no requirement to create a STORM serial simply because BWV is/has been used operationally.

For an operation where there is no STORM reference the operation identifier must be used in the Incident number line

RESTRICTED FOOTAGE

Staffordshire Police do not seek to routinely RESTRICT footage. Viewing of footage is strictly for policing purposes only and officers should be aware that the system is fully auditable. Unauthorised access or viewing of the material is potentially a criminal offence under the Data Protection Legislation.

Although there is a facility on evidence.com to RESTRICT the viewing of footage, the Force has decided that it will NOT be used and it has been disabled. If officers are concerned about any footage, they should seek the advice of a supervisor.

SHARING OF RECORDINGS AND/OR IMAGES

Footage acquired through the use of BWV, required for court will be prepared by the Prosecution Hubs under the Attorney General's rules for disclosure. If requests for footage are received by individual officers they must refer them to the Prosecution Hubs.

Defence representatives may wish to view images captured by BWV. If relevant images (i.e. not unused material) are to be shown to a suspect (and their representative) as part of the interview/investigation procedure then this will be from evidence.com. Copies will not be made.

In cases being prosecuted the Crown Prosecution Service (CPS) are responsible for ensuring any disclosable images are made available to the defence and it is not for officers to facilitate by whatever means viewing of images by defence representatives in these cases. Any requests received by officers in these circumstances must be referred to the CPS.

There will be occasions where footage is required by other organisations or individuals as part of a subject access request. The relevant departments will have the necessary means to share the data electronically or through the burning of a disc in isolated cases.

INTEGRITY OF EVIDENCE

There may be circumstances where the material that is evidential is not the full recording - perhaps where an officer is drawn from an initial incident, to an unconnected matter and the BWV was running throughout. In these circumstances, or when witness details are revealed on the recording, then a clipped (trimmed) sequence may be used, however the sequence should include some clear context, and not merely a snippet that could be deemed to misrepresent the incident.

Any clipped sequences used for evidence in court should include a short lead in to the incident and a similar trail afterwards to enable the court to be satisfied that no evidential issues have been omitted. However, the whole sequence must be declared as unused material on the MG6C, D or E schedules, as appropriate. 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 must ensure that all available footage of the incident is secured as exhibits in consideration of any defence arguments that may be presented.

PRODUCTION OF EXHIBITS

Officers dealing with all cases involving video and CCTV evidence must be mindful of the 'Birmingham defence', whereby a video recording had not been disclosed to the defence, even after specific requests for unused material to be served were made. By the time of the trial the recording could not be found and there was no prospect of it being found. It was held that the prosecution was under a duty to disclose; that the defence was prejudiced as a result of the nondisclosure; and that a fair trial was therefore impossible.

If there is any 'sensitive information' on recordings and this information cannot be masked or pixelated to prevent viewing from recordings then the recordings must be marked in order that measures can be put in place so that such things as witness

personal details are not disclosed. Pixilation is provided by the Digital Forensics Team.

FAULTY / LOSS OF EQUIPMENT

In the event of a device becoming faulty or loss of a camera, the operator will immediately report the issue to their supervisor and [REDACTED] by contacting extension [REDACTED]. A temporary replacement unit will be despatched to the officer.

SPOCs will receive additional training in order to support operators and may be able to trouble shoot issues at a local level.

If a recording is held on a BWV which has become faulty and cannot be uploaded locally then by returning the device to [REDACTED] every effort will be made to recover that recording.

Produced by Staffordshire Police FOI 21795