

Body-Worn Video technology at Halifax Regional Police

SUPPLEMENTARY REPORT

SUBMITTED BY:
Halifax Regional Police

DATE:
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Introduction

This document is being submitted in response to a request from the Board of Police Commissioners (BoPC), at its December 2020 meeting, for additional information related to the potential Body-Worn Video (BWV) deployment at Halifax Regional Police (HRP).

The document includes:

1. **a draft policy framework**
2. **a brief summary of research on community impact**
3. **a brief overall summary of research on BWV in Canada and elsewhere**

In addition, it provides several appendix documents that offer further information on BWV policy frameworks in Canada.



1. Draft policy framework

Several details of the final policy framework may change through the implementation period and ongoing evaluation, so any HRP-specific policy developed at this stage should be treated as provisional. Nonetheless, as a starting point, several principles will guide policy development during the implementation period, based on existing documents and standards¹:

- **Recording on BWV**
 - o Continuous, covert, or indiscriminate recording using BWV will not be permitted. Rather, HRP will specify the situations in which BWV will be deployed.
 - o BWV videos will be recorded for all calls for service, and any other interactions with the public where officers may ask for personal information (such as traffic stops)
 - Officers will be required to notify people that BWV recording is taking place, with exceptions for safety or operational integrity
 - Officers will be exempted from recording requirements under specified circumstances, for example:
 - where recording, or notification of recording, could create a safety risk for police or members of the public
 - during interviews or interactions within a police facility
 - when interacting with a confidential informant
 - during planned community interactions such as meetings with community members, visits to schools, or participation in public events
 - o If a video is not recorded when one should otherwise have been, officers will be required to report all reasons why the camera was not used

- **Retention of videos**
 - o Once a video is recorded, the original video will be stored without alteration for a minimum of one year plus one month
 - If a video is related to a criminal offence, investigation, or public complaint, the original will be retained without alteration in accordance with relevant retention periods for other records for the offence, investigation, or complaint
 - If a video is not related to a relevant incident, it will be purged after one year plus one month from the day it was recorded

- **Uses of BWV Videos**
 - o BWV videos will only be used for the following purposes:

¹ The principles outlined here are drawn in whole or part from the [BC Provincial Policing Standards on Body-Worn Cameras](#); the *Proposed Body-worn Camera Directive Template* prepared by Dr. Alana Saulnier of Lakehead University; and a [guidance document](#) developed by the Office of the Privacy Commissioner of Canada (OPCC), with modifications where appropriate. The above-noted documents are provided in appendix to this report.



- Investigative purposes by persons who are authorized to investigate the incident (for criminal incidents and public complaints);
 - Satisfying a FOIPOP request by a person who appears in, or whose personal information is otherwise found in, a video
 - Training purposes, or
 - Internal audit purposes
 - BWV videos will not be used as part of media releases or released to members of the general public or media *except* in the most serious situations (such as a serious crime or missing person incident where BWV footage may hold essential information). In all cases public release of BWV footage will be at the Chief’s discretion only and in line with relevant privacy protections.
- **Information about BWV at HRP**
- HRP will make relevant information about the use of BWV at HRP available for the public on the HRP website and through other public communication channels.

Privacy Considerations

The authority to deploy BWV in daily police activities arises from police duties under statute and common law to investigate crime and gather evidence related to their duties. Additionally, BWV gather personal information and so must be deployed in line with relevant privacy legislation at the provincial and federal levels.

As set out in guidance by the Office of the Privacy Commissioner of Canada (OPCC), which can be found in appendix to this document, the use of BWV must align with provincial statutes governing protection of privacy and personal information, and also be done in such a way as to not infringe on *Charter* rights. According to the OPCC, this means that BWV should be deployed in a way that is **effective** in achieving a legitimate law enforcement goal (such as accountability, transparency, or collection of evidence); **proportional** to the value of that goal (such that the infringement on privacy from video recording is justified by an “articulable benefit”); and used where there is no less intrusive **alternative**. The draft policy framework was developed with these principles in mind.



2. Research into attitudes toward BWV & community engagement

One specific area of research relating to BWV effectiveness, in which the Board has expressed interest, addresses community perceptions of BWV deployment. To date, like other findings on BWV, the data are mixed, but point generally to broad public support for BWV.

In wider research into community perceptions of BWV, a distinction is made between broad citizen perceptions of police using BWV, and perceptions of citizens who have actually encountered officers wearing BWV. In general terms, **there appears to be broad majority support for the deployment of BWV as a tool to improve police accountability and improve police-community relationships.** For example, the two most comprehensive studies on BWV implementation in Canada, conducted in Toronto² and Durham Region³, both included public attitude surveys that demonstrated broad community support for BWV technology. While respondents identified potential drawbacks from the technology, these concerns were less prevalent than perspectives that believed the technology would improve police accountability and behaviour.⁴

However, in research on whether encountering officers wearing BWV changes citizen perceptions of police, the findings remain more mixed. For example, some studies have found that citizens rarely notice BWV when officers are wearing them, and do not find an impact on trust and confidence when citizens do notice the cameras.⁵ Other studies, such as the Durham study, have identified a positive impact on citizen perceptions of police based on interactions with officers wearing BWV.

Research has also examined police officer perceptions of BWV research, including studies into police leader perspectives and studies into front-line officer attitudes toward BWV.⁶ Again, here, findings remain mixed but lean toward cautious optimism. As BWV are increasingly adopted by police services, support for BWV may be growing among police officers – for example, the Police Association of Ontario

² Toronto Police Service. (2016). [A report on the findings of the pilot project to test the value and feasibility of body-worn cameras for police officers in Toronto](#). Toronto: TPS Strategy Management.

³ Bagg, J. and Liard, J. (2020). [Durham Regional Police Service Body-Worn Camera Project Pilot Evaluation Report](#). Durham: Durham Regional Police Service.

⁴ Additionally, the Durham study referenced several national Canadian public opinion polls conducted by polling company Leger in 2020, in which 90% of respondents (and 86% of visible minority respondents) supported the use of BWV.

⁵ See e.g. White, M. D., Todak, N., & Gaub, J. E. (2017). [Assessing citizen perceptions of body-worn cameras after encounters with police](#). *Policing: an international journal of police strategies & management*.

⁶ See e.g. Smykla, J. O., Crow, M. S., Crichlow, V. J., & Snyder, J. A. (2016). [Police body-worn cameras: Perceptions of law enforcement leadership](#). *American Journal of Criminal Justice*, 41(3), 424-443, as well as the Toronto and Durham studies.



formally supported the adoption of BWV in 2020.⁷ However, in studies on perceptions of BWV, officers also express several concerns about the use of BWV, and support is not universal.

Alongside research into public and officer perceptions of BWV, several reports and guidance documents have addressed community outreach and engagement within BWV programs. For example, the UK College of Policing 'Principle 7' in their Authorized Professional Practice for BWV is that 'Forces will consult locally with their communities on the use of body-worn video.'⁸ Similarly, the US Bureau of Justice Assistance BWV 'Implementation Checklist' encourages early community engagement plans.⁹ In Canada, the OPCC's Guidance document, referenced earlier, also recommends that policies on BWV 'reflect evidence of community consultation and engagement as well as an understanding of cultural sensitivities.'

Several BWV programs have included community engagement mechanisms, including in Canada the Toronto, Durham, and Edmonton¹⁰ BWV pilot programs, for example. In all three pilots, a community survey was included within the pilot strategy; additionally, in Toronto, in-person consultations were undertaken through the TPS Community Police Liaison Committees prior to the pilot beginning. There is no clear evidence as to whether these mechanisms impacted community perceptions regarding, or acceptance of, BWV technology, and the approach to community engagement around BWV differs between jurisdictions. Still, at present such mechanisms are being treated as promising practices in BWV program implementation.

3. Summary of overall research into BWV effectiveness

Beyond questions about public attitudes toward BWV, there has been substantial further research interest in BWV technology since HRP's last report on the matter in 2017. It is noteworthy that, even with the growth of research evidence in this area, researchers often disagree amongst themselves as to how to interpret the available data and what it means for the viability of BWV programs in Canada, and there are several valid if conflicting interpretations of the research to date.¹¹ In turn, while research in the intervening years has not settled existing debates about the effectiveness of the technology, and the following is not a comprehensive review of all strands of research into BWV, a few points have become somewhat clearer in this period, which reveal some likely and potential benefits from BWV, as well as points of caution.

⁷ PAO, 2020, cited in Bagg and Liard, 2020.

⁸ <http://library.college.police.uk/docs/college-of-policing/Body-worn-video-guidance-2014.pdf>

⁹ <http://www.bwvsg.com/wp-content/uploads/2015/05/BWVImplementationChecklist.pdf>

¹⁰ <https://bwvsg.com/wp-content/uploads/2015/06/Edmonton-Police-BWV-Final-Report.pdf>

¹¹ See, for example, recent debates in the Toronto Star: <https://www.thestar.com/opinion/contributors/the-saturday-debate/2021/01/09/do-body-worn-cameras-increase-police-accountability.html>



The most important overarching finding from existing research appears to be that **the success of body-worn cameras in improving police outcomes, accountability, and relationships with the public is heavily dependent on the implementation context**. The particular policy framework, the quality of implementation, and the pre-existing local political context will influence whether BWV achieves any intended goals. For example, the most comprehensive review on BWV technology to date¹² states, “Overall, there remains substantial uncertainty about whether BWVs can reduce officer use of force, but the variation in effects suggests there may be conditions in which BWV could be effective.”

Most research into BWV technology has been conducted in the UK and USA. Research in the Canadian context is much more limited. However, findings from the Toronto and Durham Region studies, referenced above, were in line with the wider body of evidence on BWV, with mixed findings as to overall effectiveness of BWV implementation, but ultimately concluding that the evidence suggested that BWV could provide value to the police service with appropriate implementation and expectations.

Some additional points have arisen from the research, keeping in mind the issue of context:

- It is reasonable to expect BWV may provide some benefits to both police and public under the right conditions.¹³
- It is unreasonable to expect BWV to be a silver-bullet solution to a wide range of issues, but the overall weight of evidence suggests that BWV can have some positive effects, especially around resolution of complaints against police officers.¹⁴
- While many studies report mixed or no effects on other desired outcomes (such as use of force incidents), studies reporting ‘backfire’ effects are rarer than studies reporting some positive effects.
- While it is not clear if BWV evidence reduces trial or court preparation time, there is growing evidence to suggest that BWV evidence is increasingly used in court processes.

Many other questions – such as the impacts of BWV on court outcomes, times to process evidence, cost-effectiveness, and positive or negative effects on workload – cannot yet be addressed through existing research. This is both because there has not been enough use of BWV technology in Canada to create reliable estimates (and there will not be adequate evidence in the near future) and because those estimates will be highly dependent on specific police service policies, implementation strategies, local police-community relationships, and existing organizational structures.

It is worth noting that not all BWV research has focused on questions of effectiveness, and instead have examined what BWV implementation means for the character of policing in Canada. For example,

¹² Lum, C., Koper, C. S., Wilson, D. B., Stoltz, M., Goodier, M., Eggins, E., ... & Mazerolle, L. (2020). [Body-worn cameras’ effects on police officers and citizen behavior: A systematic review](#). *Campbell Systematic Reviews*, 16(3), e1112.

¹³ See e.g. Malm, A. (2019). [Promise of police body-worn cameras](#). *Criminology & Public Policy*, 18(1), 119-130.

¹⁴ Lum et al. 2020; Malm, A. (2019); see also e.g. Bui, Julie (2017). "[Body-Worn Cameras: Reducing Citizen Complaints and Improving Relationships](#)," *Themis: Research Journal of Justice Studies and Forensic Science* 5(1).



researchers and legal scholars have identified concerns about the privacy implications of BWC, such as the potential that BWV serve to increase surveillance of private citizens, and the inherent limits on the informed consent of those being recorded.¹⁵ These studies highlight the importance of ensuring that BWV policies and procedures are designed with privacy in mind, and in such a way that limits overly broad, covert, or operationally disproportionate uses of BWV technology by police.

Other researchers have raised the concern that BWV do not address underlying issues related to systemic racism, and serve to re-focus attention on only the specific situational factors of specific instances of police response. From this perspective, the use of BWV could exacerbate racial tensions around policing, if for example the use of BWV does not lead to concurrent improvements in equity in police treatment and outcomes. Returning to the questions of the effectiveness of BWVs, very little is known about whether BWV deployment has any impact on systemic racism or improved outcomes for racialized groups and individuals.¹⁶

¹⁵ See e.g. Bud, Thomas A. 2016. [The Rise and Risks of Police Body-Worn Cameras in Canada](#). *Surveillance & Society* 14(1): 117-121.; Louis, E. S., Saulnier, A., & Walby, K. (2019). [Police Use of Body-Worn Cameras: Challenges of Visibility, Procedural Justice, and Legitimacy](#). *Surveillance & Society*, 17(3/4), 305-321.

¹⁶ Glasbeek, Amanda, Mariful Alam, and Katrin Roots. 2020. [Seeing and Not-Seeing: Race and Body-Worn Cameras in Canada](#). *Surveillance & Society* 18(3): 328-342; see also Louis et al, 2019.



Appendices:

For information, we have included several documents that outline policy considerations for BWV established in other areas. These include:

1. A BWV Policy Framework developed by Dr. Alana Saulnier at Lakehead University
2. The British Columbia [Provincial Policing Standards](#) and [Principles](#) on police use of Body Worn Cameras
3. The Office of the Privacy Commissioner of Canada's [Guidance for the use of body-worn cameras by law enforcement authorities](#)



APPENDIX 1:

BWV Policy Framework by Dr. Alana Saulnier

*Please note that this is a 'living document' that receives regular revision by Dr. Saulnier, so the version here may be revised in future.

DRAFT 2: Dec 22, 2020

Canadian Policing and the Development of Body-worn Camera Policy:

A Proposed Body-worn Camera Policy Framework

Prepared by:

Alana Saulnier, PhD, Lakehead University

Framework Purpose and Preparation

Body-worn cameras (BWCs) are increasingly being used by police in Canada and internationally. Promoting consistency in police practice is an important feature of Canadian policing. Research is still needed to identify specific evidence-based policy recommendations regarding BWCs, but a provincial and/or national BWC policy template(s) for services to reflect on when crafting their own BWC directive is a useful resource for Canadian police services.

Policy guidance for police services adopting BWCs in Canada have been sparse. The Office of the Privacy Commissioner of Canada (2015) produced a national framework for BWC implementation and practice – which prioritizes privacy-oriented concerns – and, more recently, the Government of British Columbia updated the Provincial Policing Standards (2019) to include a guideline for police services adopting BWCs. The current template draws from and builds on these guidelines (as well as existing Canadian police BWC directives) to produce a more comprehensive policy template for services considering BWCs. In doing so, the template assists the Canadian police community in three important ways. First, the template encourages the proliferation of BWC directives that consistently address the same core topics while giving individual police services the freedom to develop BWC directives that are contextually appropriate and flexible to change (allowing for the incorporation of forthcoming evidence regarding optimal BWC protocols). Second, the template diminishes the resources required by individual police services as they engage in their own fact-finding missions on extant BWC policy and develop their BWC directive. Third, the use of more standardized BWC directives reduces the risk that an individual police service’s directive will be successfully challenged in court.

This template (Appendix B) and the accompanying appendix (Appendix C) were produced following a review of all available Canadian police BWC directives. The template provides an overview of the general content that services are recommended to broach in their directives along with numeric superscripts; these superscripts direct the reader to specific examples of policy statements developed by other Canadian services. To create the template, effort was made to contact all municipal, provincial, and national police services across Canada. In total, 143 police services were contacted between December 2018 and August 2019, and 127 (89%) responded to the request for information (see Appendix A). Of the responsive services, 13 (10%) indicated that they had developed a BWC directive and were willing to share that directive to assist with this project.^{xvii} This template was formed based on a content analysis of these directives and the existing Canadian BWC guidelines noted above as well as the researcher’s knowledge of ongoing and emerging areas of importance in BWC research and policy development.

^{xvii} These services are: Amherstburg Police Service (ON), Bathurst Police Service (NB), Calgary Police Service (AB), Durham Regional Police Service (ON), Edmonton Police Service (AB), Fredericton Police Force (NB), Kennebecasis Regional Police Force (NB), Kentville Police Service (NS), Medicine Hat Police Service (AB), Saint John Police Force (NB), Thunder Bay Police Service (ON), Toronto Police Service (ON), and Victoria Police Department (BC).

Appendix A: Police Services Contacted

National

Royal Canadian Mounted Police

Provincial

Ontario Provincial Police

Royal Newfoundland

Constabulary

Sûreté du Québec

Municipal

Alberta

Calgary Police Service

Camrose Police Service

Edmonton Police Service

Lacombe Police Service

Lethbridge Police Service

Medicine Hat Police Service

Taber Police Service

British Columbia

Abbotsford Police Department

Central Saanich Police Service

Delta Police Department

Nelson Police Department

New Westminster Police

Department

Oak Bay Police Department

Port Moody Police Department

Saanich Police Department

Vancouver Police Department

Victoria Police Department

West Vancouver Police

Department

Manitoba

Altona Police Service

Brandon Police Service

Morden Police Service

Rivers Police Service

Sainte-Anne Police Department

Springfield Police Service

Winkler Police Service

Winnipeg Police Service

Victoria Beach Police Service

New Brunswick

Bathurst Police Force

BNPP Regional Police Service

Edmundston Police Department

Fredericton Police Force

Kennebecasis Regional Police

Force

Miramichi Police Force

Saint John Police Force

Woodstock Police Service

Nova Scotia

Amherst Police Department

Annapolis Royal Police

Department

Bridgewater Police Service

Cape Breton Regional Police

Service

Halifax Regional Police Service

Kentville Police Service

New Glasgow Regional Police

Service

Stellarton Police Department

Truro Police Service

Westville Police Department

Ontario

Amherstburg Police Service

Aylmer Police Service

Barrie Police Service

Belleville Police Service

Brantford Police Service

Chatham-Kent Police Service

Cobourg Police Service

Cornwall Community Police

Service

Deep River Police Service

Dryden Police Service

Durham Regional Police Service

Gananoque Police Service

Greater Sudbury Police

Guelph Police Service

Halton Regional Police Service

Hamilton Police Service

Hanover Police Service

Kawartha Lakes Police Service

Kingston Police Service

LaSalle Police Service

London Police Service

Niagara Regional Police Service

North Bay Police

Orangeville Police Service

Ottawa Police Service

Owen Sound Police Service

Peel Regional Police Service

Peterborough Police Service

Port Hope Police Service

Sarnia Police Service

Sault Ste. Marie Police Service

Saugeen Shores Police Service

Shelburne Police Service

Smith Falls Police Service

South Simcoe Police Service

St. Thomas Police Service

Stratford Police Service

Strathroy-Caradoc Police Service

Thunder Bay Police Service

Timmins Police Service

Toronto Police Service

Waterloo Regional Police

Service

West Grey Police Service

West Nipissing Police Service

Windsor Police Service

Woodstock Police Service

York Regional Police Service

Prince Edward Island

Charlottetown Police Service

Kensington Police Department

Summerside Police Service

Québec

Blainville Police Service

Bromont Police Service

Châteauguay Police Service

Collines-de-L'Outaouais Police

Service

Gatineau Police Service

Granby Police Service

Joliette Regional Police Service

L'Agglomération de Longueuil

Police

L'Assomption Police Service

Lac des Deux-Montagnes Police

Laval Police Service

Lévis Police Service
Mascouche Police Service
Memphrémagog Police Service
Mercier Police Service
Mirabel Police Service
Mont-Tremblant Police Service
Montréal Police Service
Québec City Police Service
Repentigny Police Service
Richelieu Saint-Laurent Police
Service
Roussillon Police Service
Saguenay Police Service

Saint-Eustache Police Service
Saint-Jean-sur-Richelieu Police
Service
Saint-Jérôme Police Service
Sherbrooke Police Service
Terrebonne Police Service
Thérèse-De Blainville Police
Service
Thetford Mines Police Service
Trois-Rivières Police Service
Saskatchewan
Caronport Police Service
Corman Park Police Service

Dalmeny Police Service
Estevan Police Service
Luseland Police Service
Moose Jaw Police Service
Prince Albert Police Service
Regina Police Service
Saskatchewan Highway Patrol
Saskatoon Police Service
Vanscoy Police Service
Weyburn Police Service

Appendix B: Body-worn Camera Policy Summary

Section (1) Privacy Impact Assessment

The Office of the Privacy Commissioner of Ontario recommends that all police services considering BWCs conduct a Privacy Impact Assessment (PIA) specific to the use of BWCs.^{xviii} The PIA should consist of a local examination of four criteria:

1. Whether BWCs are beneficial to the agency and not simply adopted as a popular trend.
2. Whether BWCs will prove effective in producing the desired benefits.
3. Whether benefits of BWC adoption are proportionally justifiable given losses of privacy.
4. Whether there are alternatives to BWCs that might achieve the desired outcomes while infringing less on rights to privacy.

Section (2) Definitions of Special Terms

Provide an alphabetized list of special terms that are used in the directive.¹

Special terms are those that are unique to the use of BWCs but may also include those that are familiar to the policing community but not persons outside of that community.

Section (3) BWC Program Purpose

State the purpose or rationale underlying the service's adoption of BWCs.² These rationales are expected to be reasonably consistent with the examples provided but should be developed in consultation with community representatives.

Concisely summarizing the purpose of BWC adoption conveys to stakeholders (e.g., service members, community partners, community members) why BWCs are relevant to them as well as how the adoption of the technology may impact them.

Section (4) Relevant Legislation, By-Laws, and Service Directives

Provide a list of existing governance documents that are relevant to the service's use of BWCs.³

Relevant governance documents may include federal legislation, provincial legislation, and municipal by-laws that have informed the creation of the BWC directive as well as other service directives (e.g., note-taking, data retention) mentioned in the BWC directive.

Section (5) BWC Management Unit Responsibilities

^{xviii} Activities related to, but unique from, the use of BWCs (e.g., the use of facial recognition software) should be accompanied by a distinct PIA.

Summarize the responsibilities of the person(s) or unit tasked with BWC management.⁴

This summary may include, but is not limited to, topics such as: program implementation, user training, device administration, device storage and maintenance, data management, video redaction, and video disclosure.

Section (6) Training Requirements for BWC Users

State that BWC users are required to complete training prior to BWC use and that BWC training^{xix} will be embedded in annual recertification training.⁵

Consider outlining details of the training such as nuances of the law (e.g., private versus public space recording case law; *R. v. Duarte* 1990), time requirements or re-qualification training.

Section (7) BWC Users: Guidelines and Responsibilities

Specify who will be required to wear and use a BWC (e.g., that only frontline, unformed sworn members will wear BWCs).

Summarize guidelines that will assist the BWC user in their responsible use of the BWC. Key guidelines drawn from existing Canadian BWC directives are presented below.

s.(7(1)) Equipment Assignment and Sign-Out.

State the protocols governing equipment assignment.

This statement may include, but is not limited to, details such as: prohibitions on BWCs that are not service-issued,^{6A} descriptions of how BWCs will be assigned, statements of how BWCs will be signed-out/in,^{6B} and protocols to be followed if a BWC is lost or stolen.^{6C}

s.(7(2)) Wearing during Special Duties.

State whether users are expected to wear the BWC while performing special duties (e.g., special events staffing, paid duties).⁷

s.(7(3)) Activation and Use Expectations.

BWC users should only activate the recording function of the BWC when circumstances dictate the BWC's use.^{8A}

When not recording an event, if possible,^{xx} the BWC should be placed in a buffering mode that allows the BWC to continuously record in short time loops (e.g., 30 seconds) but not save the content captured to permanent memory until the BWC is activated. Once activated, content captured during the most recent buffering period

^{xix} Including muscle memory development as well as technology, legal, and policy updates.

^{xx} Not all BWC technology may have this capability. There may be a need to set ideal minimum standards regarding capabilities of BWCs that are to be used by police services.

(e.g., the previous 30 seconds) is saved to permanent memory. State whether the buffering mode will be used and specify details associated with this mode. These details may include, but are not limited to, topics such as: buffering length (e.g., 30 seconds), whether only video or also audio content from the buffering mode will be transferred to permanent memory once the BWC is activated, and explanations for decisions associated with the buffering mode (e.g., maintaining reasonable privacy expectations for members).

Specify the circumstances under which the user is expected to activate the BWC.^{8B} In general, it is recommended that BWC users be advised to activate the BWC as soon as reasonably possible, prior to arriving to a call for service, for all investigative contacts.

State any practices that are expected to accompany activation.^{8C}

Specify key expectations associated with using^{8D} the BWC including protocol(s) to be followed if the user fails to activate the BWC or if the BWC malfunctions.^{8E}

s.(7(4)) Notification of Recording.

State whether the user is expected to notify others when the BWC is recording.^{9A}

If the user has a duty to notify others that a BWC is recording, specify who the user is expected to notify (e.g., other emergency services personnel, subjects) and expectations associated with the notification (e.g., timeliness, phrasing, exceptions).

Consider including a clear position on the use of BWCs for covert recording.^{9B}

s.(7(5)) Community Consent Considerations.

State whether the user is expected to receive consent from subjects to use a BWC to record an interaction.

If the user has a duty to receive subject consent, specify the details of when consent is required (e.g., private dwelling house, particular types of subjects such as victims).^{10A}

If the user is permitted to disregard subject objections to recording, specify the details of when consent is not required^{10B} and suggested explanations for the user to offer to the subject as a rationale(s) for continued recording.^{10C}

s.(7(6)) Content to Avoid Recording and Content of a Sensitive Nature.

Specify any persons, situations, locations, and/or content that users are expected to avoid recording with the BWC^{11A} and state whether users are permitted to exercise discretion in their recording decisions more generally.^{11B}

If users are permitted to exercise discretion in their recording decisions, provide examples that assist users in reflecting on when activating BWC recording may undermine human dignity.^{11C} Examples may include, but are

not limited to, situations involving: undressed persons, sexual assault survivors, domestic violence survivors, children, or next of kin notifications.^{11D}

s.(7(7)) Alternative Recording Options: Muting and Lens Repositioning.

State whether the user is permitted to use alternative recording options (e.g., muting^{12A} and/or lens repositioning^{12B}) to assist in managing challenges presented by circumstances outlined in Section (7), subsections (5) or (6).

s.(7(8)) Deactivation.

If users are not recording continuously, specify the circumstances under which the user is expected to deactivate the BWC and any practices that are expected to accompany deactivation.¹³

s.(7(9)) Video Viewing and Facilitation of Subject Video Viewing.

State whether the user is permitted to view their BWC recordings^{14A} and/or facilitate subjects viewing BWC video segments that feature them.^{14B}

If users are permitted to view their BWC recordings, specify the reasons why the user may choose to view their BWC video (e.g., note-taking).^{14C}

s.(7(10)) Notes and Report Writing.

State whether the user is required to indicate that BWC footage exists for an incident in their duty notes and/or report.^{15A}

Specify the extent to which BWC user duty notes or reports are permitted to defer to BWC video, including stating whether BWC video is permitted to serve as a substitute for officer duty notes and/or reports,^{15B} or written statements by victims or witnesses.^{15C}

s.(7(11)) Video Cataloging and Uploading.

State whether it is the user's responsibility to upload^{16A} and catalogue^{16B} (e.g., preparing a BWC log and/or synopsis) BWC video.

User cataloguing of BWC video has been a feature of existing Canadian BWC directives but the continued development of a simple and consistent labelling system for BWC videos is essential for efficiently leveraging BWC footage during prosecution. Services are encouraged to adopt a labelling system that includes having users catalogue all BWC videos as either (1) evidentiary (e.g., capturing an offence, incriminating utterance or evidence, or a confession) or (2) asset (e.g., capturing an officer carrying out their duties without capturing known evidentiary content). This labelling system will assist prosecutors in managing BWC video and analysts in tracking the effects of BWC use on court outcomes.

s.(7(12)) Video Modification, Duplication, or Deletion.

State whether the user is permitted to modify, duplicate, or delete their BWC recordings.¹⁷

If users are permitted to modify, duplicate, or delete their BWC recordings, specify the conditions under which the user is permitted to do so.

Section (8) Supervisors of BWC Users: Guidelines and Responsibilities

Summarize the responsibilities of supervisors of BWC users.

Drawing from existing Canadian BWC directives, this summary may include, but is not limited to, details such as: video access and modification privileges,^{18A} responsibilities related to video review,^{18B} and responsibilities in special circumstances such as incidents where the Special Investigation Unit's mandate may be invoked.^{18C}

Section (9) BWC Evidence Storage and Retention

State the protocols governing the storage and retention of BWC video.^{19A}

Drawing from existing Canadian BWC directives, this statement may include, but is not limited to, details such as: procedures for uploading data and details regarding how data will be stored,^{19B} security precautions associated with the stored video,^{19C} audit trail requirements,^{19D} and video retention and destruction timelines,^{19E} including a clear statement on personnel authorized to modify or delete video.^{19F}

Section (10) BWC Directive and Video Disclosure

Summarize guidelines related to the access and release of the BWC directive and BWC video. Key guidelines drawn from existing Canadian BWC directives are presented below.

If BWC video disclosure has not been identified as a responsibility of a specific person(s) or unit in the previous sections (e.g., Section (5) BWC Management Unit Responsibilities), identify the person(s) or unit responsible for disclosing BWC video.

s.(10(1)) Court Disclosure of BWC Video.

State whether the service will redact BWC video for court disclosure.

If the service will redact BWC video for court disclosure, specify the protocols governing the redaction process, the general content that is to be redacted, and the person(s) or unit that will be responsible for redaction.

Specify the timelines governing the disclosure of BWC video to court partners.²⁰

To support prosecutors in efficiently leveraging BWC footage, services are encouraged to accompany all BWC videos disclosed to court partners with: (1) a label identifying the video as evidentiary or asset (using the labelling system presented in Section (7), subsection (11)), and (2) a brief video synopsis.

s.(10(2)) General Internal Access and Requests.

State the anticipated types of internal requests for access to BWC video and specify the protocols governing: (1) acquiring access to the video, (2) any requirements necessary to permit the release of the video, and (3) any caveats associated with the use of the released video.

Drawing from existing Canadian BWC directives, anticipated requests may include, but are not limited to: detectives conducting ongoing investigations,^{21A} training,^{21B} supervisory review, standard investigations following officer involvement in a serious injury or death,^{21C} or investigative reviews by Professional Standards, Special Investigations Unit, or external oversight bodies.^{21D}

s.(10(3)) Requests by the Media or Public.

The service's BWC policy should be publicly accessible .^{22A}

State the public's right to access the service's BWC videos and specify the protocols governing media and public requests for footage,^{22B} such as: (1) the process by which the request must be made, and (2) any requirements necessary to permit the release of the video.

Section (11) Internal Audits of Adherence to BWC Directive

State whether an internal audit related to the BWC program and/or directive will be conducted on a regular basis.

If a regular internal audit is to be conducted, specify the purpose of the audit and protocols governing the audit.²³

Section (12) Consequences for Violating the BWC Directive

State whether there will be consequences for violating the BWC directive.

If there are consequences associated with violating the BWC directive, specify the range of those consequences.²⁴

Section (13) Additional Considerations Relevant to BWC Directives

As an emerging police technology, there are additional considerations related to BWC use that have been rarely, or not yet, included in Canadian BWC directives. It is important for police services to prepare BWC directives that consider and comment on the future capabilities of this technology.

Examples may include, but are not limited to, commenting on: transcription expectations and procedures, live streaming,²⁵ video enhancement or augmentation possibilities (e.g., clarity of image or sound), or exposure of data collected to immediate or subsequent analysis by human analysts or artificial intelligence algorithms.

Section (14) BWC Directive Re-evaluation

State that the BWC directive will be subject to cyclical review.

Specify the purpose and protocols of the cyclical review.²⁶

Appendix C: Examples from Canadian Police Services

Section (2) Definitions of Special Terms

1

Body Worn Camera (BWC) – a wearable video and audio recording system.

Exigent circumstances – circumstances where a delay in taking action would result in danger to human life or safety or where action is necessary to prevent the continuation of an offence which threatens human life or safety.

(British Columbia Provincial Policing Standards)

Section (3) BWC Program Purpose

2

The goals of equipping front-line officers with BWCs are to assist the Service to:

- Enhance public trust, confidence in the police, and police accountability;
- Capture an accurate record of police officer interactions with the public;
- Enhance public and police officer safety;
- Strengthen the commitment to bias free service delivery by officers to the public;
- Provide improved evidence for investigative, judicial, and oversight purposes;
- Ensure fair and timely resolution of complains and reduce unwarranted accusations of misconduct;
- Provide additional supervisory and leadership tools; and,
- Provide information as to the effectiveness of Service procedures and training.

(Toronto Police Service)

The purpose of using BWCs is to:

- Provide additional evidence for prosecutions;
- Augment current note taking practices and improve evidence documentation;
- Increase public trust and confidence;
- Increase police accountability;
- Reduce use of force incidences by and against the police by affecting the behaviour of individuals who are aware of the recording in-progress;
- Increase transparency;
- Reduce frivolous complaints about alleged police misconduct;
- Increase the efficiency of resolution of complaints against police;
- Provide early-case resolution in prosecutions; and,
- Provide real-life training examples.

(Calgary Police Service)

The purpose of the BWC Project is to determine if the deployment of BWC to frontline members of the Thunder Bay Police Service provides value to our internal colleagues, partner agencies, and the community, specifically with respect to:

- Accuracy and quality of evidence collection and the related judicial and oversight processes.
- Transparency, to maintain trust between our community, internal colleagues, and partner agencies.
- Enhancing accountability for both TBPS Members and the Members of the Community served by the TBPS.
- Provide information as to the effectiveness of service procedures and training.

(Thunder Bay Police Service)

Section (4) Relevant Legislation, By-Laws, and Service Directives

3

The following Federal legislation is relevant to this directive:

- Constitution Act, Part I;
- Canadian Charter of Rights and Freedoms;
- The Criminal Code; and,
- The Privacy Act.

The following Provincial legislation is relevant to this directive:

- Police Services Act and Regulations; and,
- Municipal Freedom of Information and Protection of Privacy Act, Reg. 823.

The following Municipal legislation is relevant to this directive:

- Thunder Bay Police Services Records Retention By-Law.

(Thunder Bay Police Service)

Governing authorities:

Federal:

- Constitution Act;
- Canadian Charter of Rights and Freedoms;
- Criminal Code; and,
- Privacy Act

Provincial:

- Police Services Act; and,
- Municipal Freedom of Information and Protection of Privacy Act.

Associated Service Governance:

- LE 015 - Informants and Agents LE 022 - Note taking
- LE 033 - Prisoner transport
- Policy - Freedom of Information
- Policy - Special Investigations Unit

(Amherstburg Police Service)

Section (5) BWC Management Unit Responsibilities

[4](#)

The BWC Project Team is responsible for: delivering and evaluating the BWC Project (including planning, communications, training, video management and frontline support); administering the DRP Evidence.com system and the BWC devices; and, reporting to the BWC Steering Committee.

(Durham Regional Police Service)

BWC Coordinator (Chief of Police or Designate):

- Manages BWC recordings;
- Is the primary contact for the training, maintenance, and use of the BWC system;
- Administers and manages access to and security of BWC recordings;
- Allocates, issues, replaces, tracks, and troubleshoots the BWC devices, docking stations, and software;
- Maintains a log of BWC assignments;
- Assists with RTIPPA and FOIPOP requests;
- Maintains a scheduled audit process; and,
- Discloses BWC videos in the e-disclosure format as required that are marked by officers for disclosure.

(Kentville Police Service)

Section (6) Training Requirements for BWC Users

[5](#)

Ensure that officers receive an orientation and training on the use and operation of the BWC equipment as well as the police force's associated policies and procedures prior to being assigned a BWC.

(British Columbia Provincial Policing Standards)

Officer Responsibilities

- ...Complete the operator training course, available on Training Partner, before using the BWC system...

(Calgary Police Service)

No police officer shall operate a BWC without having completed the BWC pilot project training.

(Toronto Police Service)

Participating Members shall...complete the required training when assigned to the BWC Project.

(Thunder Bay Police Service)

Section (7) BWC Users: Guidelines and Responsibilities

s.(7(1)) Equipment Assignment and Sign-Out.

[6A](#)

Only BWCs which are issued by the police force are permitted to be used.

(British Columbia Provincial Policing Standards)

[6B](#)

At the end of shift, officers shall place the BWC into the designated charging system.

(Fredericton Police Force)

[6C](#)

The officer shall report any lost or damaged BWC equipment to the BWC Coordinator.

(Fredericton Police Force)

Report any lost or damaged BWC equipment to the Supervisor, BWC Unit.

(Calgary Police Service)

The officer shall report any lost or damaged BWC equipment to the shift NCO or BWC coordinator.

(Kentville Police Service)

s.(7(2)) Use during Special Duties.

[7](#)

A member on special event policing duty is conducting that duty according to EPS policies and standards regardless of the location of the duty. Members using BWC should, therefore, wear the device during special event policing duties.

(Edmonton Police Service)

s.(7(3)) Activation and Use Expectations.

[8A](#)

The BWC is an overt recording device to assist officers in the lawful execution of their duties, BWCs are not intended for 24-hour recording.

(Amherstburg Police Service)

[8B](#)

When equipped with a BWC, [officers] shall:

- Activate the BWC, as soon as reasonably possible, prior to arriving at a call for service, or at the decision to initiate an investigative contact.

(Toronto Police Service)

When equipped with a BWC, all members shall activate the BWC, as soon as reasonably possible, prior to arriving at a call for service or at the decision to initiate any investigative contact.

(Thunder Bay Police Service)

The BWC shall be activated to record when it is appropriate in the official performance of his/or her duties.

(Kennebecasis Regional Police Service)

When equipped with a BWC an officer shall activate the BWC as soon as reasonably possible prior to arriving at a call for service or the decision to initiate any investigative contact.

Officers shall activate BWCs when they operate their patrol vehicle with the emergency equipment activated.

(Amherstburg Police Service)

[8C](#)

As soon as reasonably possible when the BWC is activated, members shall:

- Record a brief audible statement indicating why the BWC is being activated;
- Advise the person(s) being investigated that they are being recorded through the use of a BWC; and,
- Advise other persons, including Service members and other emergency personnel, on scene that a BWC is in use and they may be recorded.

(Thunder Bay Police Service)

When practicable, officers will verbally state the following when activating a BWC:

- Date;
- Time;
- Location; and,
- Nature of the incident.

(Fredericton Police Force)

(Kentville Police Service)

When practicable, verbally state the following when activating a BWC:

- Date;
- Time;
- Location; and,
- Nature of the incident.

(Calgary Police Service)

[8D](#)

Officers assigned BWC equipment shall wear it on the outermost part of their uniform [in the chest area] and make best efforts to ensure that the camera lens is not obstructed or misaimed.

(Kennebecasis Regional Police Force)

While the recording is activated, members should, whenever possible, continue to state for the recording elements of the situation that may not be readily visible (such as activity on the peripheral of the incident; smells such as alcohol or drugs).

(Edmonton Police Service)

It is prohibited to:

- Make audio or video recordings of BWC audio or video for any purpose not permitted under this policy;
- Disseminate BWC images to any person or entity unless authorized by law;
- Use a BWC to record any activities that are not required for a valid law enforcement purpose;
- Use a BWC in a covert capacity;
- Use a non-CPS issued BWC or similar device;
- Modify, obscure, willfully interfere with, damage, or otherwise limit or prevent the BWC equipment from

recording audio / video as designed [unless you choose to cover the lens in order to protect the person's privacy rights];

- Make audio or video recordings when conducting a strip search;
- Make audio or video recordings during a situation that would reveal confidential police investigative or tactical techniques; or,
- Knowingly record interactions with a confidential informant.

(Calgary Police Service)

Officers must be prepared to articulate the reason for the use or non-use of a BWC.

(Fredericton Police Force)

[8E](#)

Where a Member fails to activate their BWC at an investigative contact, or where intentional or accidental deactivation occurs or the BWC's recording function is limited, Members shall make a record of the details around why the BWC was not used to record, deactivated, or limited in their duty notes and reports. Where relevant to the investigative contact the Member should summarize what transpired during the time the BWC was not recording.

(Thunder Bay Police Service)

If the BWC malfunctions or fails to activate, note that fact and return the BWC for service before the end of shift if practicable.

(Calgary Police Service)

If the BWC malfunctions, fails to activate, or is accidentally deactivated, note in your notebook that fact and return the BWC for service before the end of shift.

(Kentville Police Service)

s.(7(4)) Notification of Recording.

[9A](#)

When a BWC is activated the officer shall as soon as reasonably possible advise the involved individual(s) and on scene officers that they are being recorded unless the officer feels that doing so would undermine their dealing with the individual.

(Amherstburg Police Service)

All officers participating in this Pilot Project will:

- When practicable and safe to do so, advise members of the public when they are being recorded that they are being audio and video recorded.

(Medicine Hat Police Service)

Officers will not use in-car video or BWC to make recordings of other officers or staff without verbal notice.

(Victoria Police Department)

As soon as reasonable possible, when the BWC is activated members shall:

- Advise the persons being investigated that they are being recorded through the use of a BWC; and,
- Advise other persons, including service members and other emergency personnel, on scene that a BWC is in use and that they may be recorded.

(Durham Regional Police Service)

[9B](#)

Covert recordings or personal-use recordings made using the BWC are prohibited...No member shall use a BWC to intercept communications to which they are not a party.

(Thunder Bay Police Service)

It is prohibited to:

- ... use a BWC in a covert capacity; ...

(Calgary Police Service)

It is prohibited and may be considered a privacy breach to:

- ... use a BWC in a covert capacity ...

(Fredericton Police Force)

(Kentville Police Service)

s.(7(5)) Community Consent Considerations.

[10A](#)

In locations where individuals have a reasonable expectation of privacy, such as a residence, they may decline to be recorded unless the recording is being made pursuant to an arrest or search of the residence or individuals.

(Bathurst Police Force)

Consent of the owner/occupant [O/O]: If at any time during the attendance, the [O/O] requests that the interaction not be recorded, the officer shall deactivate the BWC or leave the private place. In this situation, an officer's lawful presence in the private place is conditional on the [O/O's] consent, once the [O/O] requests that the interaction not be recorded that consent is conditional upon the camera being deactivated. Therefore, the camera must be deactivated in order for the officer's presence at the location to remain lawful.

(Durham Regional Police Service)

(Thunder Bay Police Service)

(Toronto Police Service)

[10B](#)

Recording in exigent circumstances or while in the execution of a search warrant: when an officer is lawfully entitled to enter a private place in exigent circumstances or on the authority of a search warrant, the officer is lawfully permitted to have his/her BWC activated during their presence at the location. Under these circumstances, officers shall advise the occupants of the use of a BWC as soon as reasonably possible. Despite an individual's objection to recording, in these circumstances, an officer shall continue to record in accordance with this policy.

Public Place: Where an officer encounters situations where individuals object to being recorded in a public place, officers shall continue to record in accordance with this policy.

(Amherstburg Police Service)

(Toronto Police Service)

The use of a BWC in any circumstance can have significant privacy implications. When using a BWC, officers will weigh the law enforcement objective against privacy concerns and take reasonable steps to mitigate the impact on the individual's privacy.

Mitigation may include vetting of the BWC recording, or the BWC audio recording only. Deactivation of the BWC is not recommended given the important purposes served by the use of BWCs.

(Calgary Police Service)

[10C](#)

In some circumstances, officers may find that one party objects to the recording taking place, for example when there are allegations of domestic abuse. It is recommended that officers continue to record when incidents are occurring or allegations of a criminal or investigative nature have been made. In such circumstances, the member should continue to record while explaining the reasons for doing so. These reasons might include:

- That an incident has occurred requiring police to attend;
- That the officer's continued presence might be required to prevent a breach of the peace or injury to any person;
- The requirement to secure best evidence of any offences that have occurred, whether this is in writing or on video, and 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 all 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; and/or,
- That continuing to record will safeguard the officer against any potential allegations from either party.

(Edmonton Police Service)

s.(7(6)) Content to Avoid Recording and Content of a Sensitive Nature.

[11A](#)

Ensure that the BWC is not activated to record (or is deactivated or sufficiently re-positioned so as not to record):

- Formal statements normally taken at a police service facility including KGB statements;
- Investigative discussions or enquiries between police personnel;
- Situations that reveal police investigative techniques;

- Administrative duties;
- Images of an individual in circumstances of a sensitive nature;
- Attendance at a courthouse, place of worship, hospital, or other healthcare facility;
- Incidents or places that are protected by legal privilege;
- Interactions which could potentially identify a confidential informant(s) or police officer in an undercover capacity;
- Booking/handling a prisoner within a service facility where the officer reasonably believes that audio and visual recording equipment is in use and it would not benefit the investigation and/or officer safety to have the two systems recording simultaneously; or,
- Directed to do so by a supervisor.

(Toronto Police Service)

When weighing the law enforcement purpose against privacy concerns, officers will recognize the heightened privacy interests in a dwelling house, schools, a place of religious worship, a medical facility, and a law office.

(Medicine Hat Police Service)

Do not activate a [] BWC:

- To record uninvolved, children and youth, bystanders, or benign interactions with the public to the extent reasonably possible;
- During a situation that would reveal confidential police investigative or tactical techniques;
- When conducting a strip search; or,
- While a detainee is speaking with a lawyer for the purpose of obtaining legal advice.

(Medicine Hat Police Service)

11B

[Officers may deactivate their BWC when] the officer reasonably believes that deactivating the recording for a portion of the incident would benefit the investigation and/or prevent capturing video and/or audio of things not to be recorded as identified [elsewhere in the directive].

(Toronto Police Service)

The decision to deactivate BWC recording must necessarily retain an element of discretion related to each context and all such decisions are to be justifiable. This can be done by stating the reason for deactivation prior to ending the recording and/or by entering the reason into the member's notebook. Reasons for deactivation should also be included in any related reports.

(Edmonton Police Service)

While it is not suggested or expected that the "record" mode will be enabled for the front line officers' entire shift, it must be recognized by each individual member that there is an expectation that appropriate and professional discretion will be exercised as to what is or is not recorded. There is no expectation that daily interactions with the public that have

nothing to do with calls for service or incidents being investigated will be recorded. ... Ultimately, it will be the individual officer that will be called upon to justify their decision with respect to the recording or failure to record a relevant incident.

(Kennebecasis Regional Police Force)

Officers using BWC during the pilot will use their own discretion in activating the camera, but decision-to-activate will be an assessed element of the pilot. In the event a recording is stopped, officers must demonstrate reasoning.

(Saint John Police Force)

11C

Without limiting the definition, incidents or situations of a sensitive nature, may include nudity, medical episodes, medical treatment and extreme emotional distress. In such circumstances, an officer may temporarily turn a BWC away from the vulnerable individual, obstruct the lens or deactivate the BWC recording function while an officer takes immediate steps to address the situation.

(Thunder Bay Police Service)

(Durham Regional Police Service)

11D

Officers should avoid recording exposed areas of a citizen's body as well as recording people who are unrelated to the police purpose.

(Bathurst Police Force)

The identities of children need to be protected. If safe to do so, and possible in the circumstances, cameras should be directed away from children.

Sexual Assault: While BWC recordings may be a potential aid in recording important evidence, sensitivity must be employed by a first responder to a sexual assault incident, and the BWC is to be used accordingly.

(Edmonton Police Service)

s.(7(7)) Alternative Recording Options: Muting and Lens Repositioning.

12A

Officers may utilize the Mute function on their camera to continue video recording, where appropriate and authorized, while obtaining private contact information or other potentially privileged information.

(Durham Regional Police Service)

(Thunder Bay Police Service)

12B

Officers equipped with a BWC must be cognizant of the impact the recording may have on victims, witnesses, or suspects involved in incidents of a sensitive nature. In such circumstances, an officer may temporarily turn a BWC away from the vulnerable individual or deactivate the BWC video

recording function while an officer takes immediate steps to address the situation. However, any deactivation of the BWC video recording function effected out of a reasonable concern for the dignity of a vulnerable victim, witness, or suspect, must be in accordance with this Procedure.

(Amherstburg Police Service)
(Toronto Police Service)

Officers equipped with a BWC must be cognizant of the impact the recording may have on victims, witnesses, or suspects involved in incidents or situations of a sensitive nature.

In such circumstances, an officer may temporarily turn a BWC away from the vulnerable individual, obstruct the lens or deactivate the BWC recording function while an officer takes immediate steps to address the situation.

Any deactivation of the BWC recording function effected out of a reasonable concern for the dignity of a vulnerable victim, witness, or suspect, must be in accordance with this directive. The priority must be given to the collection of evidence.

(Thunder Bay Police Service)

Children may ... be present as witnesses or victims ... The identities of children need to be protected. If safe to do so, and possible in the circumstances, cameras should be directed away from children.

(Edmonton Police Service)

s.(7(8)) Deactivation.

[13](#)

Once activated, BWC will not be deactivated until the enforcement action/investigation is completed or if the officer reasonably believes that continued recording would serve no further evidentiary value (i.e., simply waiting for a tow truck or a family member to arrive or other similar situations).

(Victoria Police Department)

When making a decision to deactivate or limit the recording of a BWC the member or supervisor shall take into account the following factors:

- Necessity:
 - Is it necessary to limit or stop recording?
 - Why now?
 - What has changed?
 - Consistent with directive?
 - Consistent with law?
- Risk:
 - What are the risks to recording (i.e. privacy, privileged information, trust and accountability)?
 - What are the risks to not recording (i.e. not capturing evidence)?
 - What are the potential outcomes?

- Acceptable:
 - Is the decision acceptable?
 - Is it lawful?
 - Is it appropriate?

(Thunder Bay Police Service)
(Durham Regional Police Service)

Do not deactivate the BWC before the completion of a contact with the public or during an investigation unless approved or directed by a supervisor, or in certain circumstances which include, but are not limited to:

- When an undercover officer will be put at risk;
- When the investigation or arrestee has moved inside a police facility;
- When you are inside any police facility, unless dealing with a member of the public at the front counter;
- At a traffic point that is being held for a lengthy investigation (for example, a homicide scene, a fatal collision); or,
- In situations where there are privacy considerations as outlined in s. 7(3).

If you turn off the BWC during an investigation or incident:

- If practical, record a brief audible statement with the reason for the deactivation into the BWC microphone;
- Document the reason for the decision in your notebook;
- Note the reasons in Investigative Details of the report if conducting a criminal investigation; and,
- Note the reasons in Disclosure Concerns of the report, if applicable.

(Calgary Police Service)

s.(7(9)) Video Viewing and Facilitation of Subject Video Viewing.

[14A](#)

Frontline Officers will have access and permissions to upload, view and search BWC video/audio records that they have created.

(Durham Regional Police Service)
(Thunder Bay Police Service)

[14B](#)

Witnesses may be permitted to review their recorded account prior to the making and signing of any written statement. Care must be taken to ensure that witnesses are not permitted to review any aspect of the recording other than their own initial account. Their statement should also refer to the viewing of the recording of their first account.

(Edmonton Police Service)

[14C](#)

All supplementary notes made after reviewing [] BWC video must indicate the date and time of review and all additional relevant observations you have identified in your notebook.

(Medicine Hat Police Service)

In addition to field notes made at the time, officers may make notes regarding any relevant observations or changes to your field notes. Ensure that:

- The “supplemental notes” are identified as such and include the date and time; and,
- Document any additional relevant observations in the notebook. For example, use wording such as: “Upon reviewing the video recording I have made the following additions or changes to my notes...”

(Fredericton Police Force)

BWC recordings may be viewed (when available) by...the individual authorized to use that specific BWC unit to:

- Make sure the BWC unit is working;
- Assist in the writing of notes or any formal report;
- Replay the incident to a subject involved in that incident; or,
- Assist with further investigations.

(Edmonton Police Service)

s.(7(10)) Notes and Report Writing.

[15A](#)

Must require that officers note the existence of a BWC recording in the police report.

(British Columbia Provincial Policing Standards)

[15B](#)

BWCs shall not be used to replace detailed memorandum notes and applicable report.

(Amherstburg Police Service)

BWC recordings are not a replacement for proper note taking.
(Calgary Police Service)
(Kentville Police Service)

When a BWC is utilized, recordings are considered as supporting the members' observations and shall supplement, not replace, memo book notes and detailed Versadex RMS reports...

(Durham Regional Police Service)

[15C](#)

Such recordings do not replace the need for formal written statements from victims or witnesses, but they can be used as supporting evidence for the statements.

(Edmonton Police Service)

s.(7(11)) Video Cataloging and Uploading.

[16A](#)

Members equipped with a BWC shall...upload all BWC video to Evidence.com© during and/or immediately following each and every shift.

(Durham Regional Police Service)

At the end of shift, officers shall...place the BWC into the designated charging system to upload recordings and charge the BWC.

(Kentville Police Service)

At the end of shift...ensure that all recordings from the ICCIBWC are uploaded and assigned the necessary Meta data where applicable.

(Medicine Hat Police Service)

[16B](#)

Members equipped with a BWC shall:

- Categorize each video record within Evidence.com© as described in [] Retention Schedule & Purging of BWC Video / Audio Records...;
- Complete a synopsis for all statements taken with BWC video...;
- Complete a video log for any report, street check, or e-ticket filed...; and,
- Identify items to be redacted contained within the BWC video.

(Durham Regional Police Service)

If you have disclosure concerns regarding video content (for example, personal address, informant information or undercover officers), note them in the Disclosure Concerns section of the Occurrence Report.

(Calgary Police Service)

Members equipped with a BWC shall:

- Categorize each video record within Evidence.com© as described in section [] Retention Schedule & Purging of BWC Video 1 Audio Records;
- Complete the ID field within Evidence.com© for each and every video record:
 - The ID field shall be the prime incident number in the following format: YY—NNNNNN (only use the required number of places).
 - For traffic investigations where the prime incident number is not relevant to the case the ID field shall be the Provincial Offence Notice or Summons number.
- Update the Title field within Evidence.com© for each and every video record:
 - The Title field shall be the officers 3- or 4-digit badge number followed by the Axon generated file title: ### or ##### — AXON Flex Video YYYY—MM—DD HHHH.

(Thunder Bay Police Service)

s.(7(12)) Video Modification, Duplication, or Deletion.

[17](#)

Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings.

(Bathurst Police Force)

At the end of shift, officers...shall not erase, alter, modify or tamper with BWC recordings.

(Kentville Police Service)

No officer shall disable BWC equipment or delete, alter, duplicate or destroy BWC recordings except with permission from authorized personnel (copies of recordings for court purposes are permitted).

(Amherstburg Police Service)

Section (8) Supervisors of BWC Users: Guidelines and Responsibilities

18A

Frontline Supervisors will have access and permissions to upload, view, and search BWC video/audio records that they have created or that have been created by the Frontline Officers within their unit. Frontline Supervisors will not be able to alter or delete BWC video/audio records.

(Thunder Bay Police Service)

18B

Supervisors with officers equipped with BWCs shall conduct a regular review of recordings to:

- Ensure the BWCs and systems are being used and operated in accordance with this policy;
- Determine additional needs as appropriate; and,
- Identify material that may be appropriate for training.

The supervisor will note the date and time the videos were viewed as well as the identity of the videos viewed.

(Amherstburg Police Service)

Supervisors of members equipped with BWCs shall review recordings of:

- Incidents involving use of force;
- Incidents involving Suspect Apprehension Pursuits;
- Regulated Street Check incidents; and,
- Incidents related to public complaints.

Supervisors of members equipped with BWCs may review recordings to:

- Ensure the BWCs and systems are being used and operated in accordance with this directive and BWC project training.
- Determine additional training needs.
- Identify material that may be appropriate for training.

Supervisors of members equipped with BWCs may utilize BWC recordings in incident debriefings.

Supervisors of members equipped with BWCs may utilize BWC recordings for member commendations and performance management.

(Thunder Bay Police Service)

Supervisors with officers equipped with BWCs shall:

- Conduct a regular review of recordings to:

- Ensure the BWCs and systems are being used and operated in accordance with this Procedure and BWC pilot project training;
- Determine additional training needs, as appropriate; and,
- Identify material that may be appropriate for training.
- Review recordings, where applicable, to assist in the resolution of a public complaint

(Toronto Police Service)

During the beta test, the project co-ordinator and project managers will conduct weekly reviews of the [] BWC recordings to assess whether the [] BWC is being fully and properly used.

(Victoria Police Department)

18C

When attending or involved in an incident where the mandate of the Special Investigations Unit (SIU) has been or may likely be invoked, [the supervisor] shall ensure the BWC is secured and the recorded media is protected and [will] follow the directions of the Chief's SIU designate.

(Amherstburg Police Service)

Section (9) BWC Evidence Storage and Retention

19A

All BWC data is to be treated in principle as if it is evidence. In practice, analysis of the BWC data will determine status of data as evidence.

(Saint John Police Force)

19B

BWC recordings will be uploaded automatically from the docking station to a secure, centralized server maintained by Axon.

(Kentville Police Service)

19C

Video/audio records created using the BWC are edit—proof and encrypted. Video/audio records created using the BWC shall be stored securely on Evidence.com®.

(Thunder Bay Police Service)

19D

Must require that an audit trail, which is automated and immutable, is maintained of all persons, dates and times when BWC video was accessed, and what action the user took.

(British Columbia Provincial Policing Standards)

Access to a BWC video / image is automatically captured and tracked in the audit log, which includes the officer's regimental number / name, time, and date.

(Fredericton Police Force)

(Kentville Police Service)

All access to BWC recordings is tracked through the audit trail feature within Evidence.com®.

(Durham Regional Police Service)

[19E](#)

Must ensure that any BWC video retained as evidence in relation to an offence or complaint is kept for the relevant retention periods in accordance with applicable provincial and federal legislation.

(British Columbia Provincial Policing Standards)

Recordings that have not been flagged as relevant to an investigation or possible legal action will be automatically deleted from the server after six (6) months.

(Kentville Police Service)

All video captured will be retained based on current retention schedules if the event(s) captured is such that an Incidence Report (CRIMES) is recorded, or a formal or informal complaint is received. Otherwise the video will be retained for thirty (30) days or such longer period reasonably necessary to analyze for purposes of the pilot and will then be deleted.

(Saint John Police Force)

BWC recordings will be automatically deleted after 13 months unless required as evidence. This is consistent with Solicitor General Alberta Policing Standards for the use and storage of police holding room and Arrest Processing Section video.

If a recording becomes part of a case file, it will be retained according to the CPS Records Retention Schedule, depending on the type of case.

(Calgary Police Service)

[19F](#)

Altering, duplicating, deleting or destroying BWC recordings is prohibited, except by authorized personnel.

(Toronto Police Service)

Section (10) BWC Directive and Video Disclosure

s.(10 (1)) Court Disclosure of BWC Video.

[20](#)

For evidentiary disclosure where criminal charges laid: All BWC video/audio evidence where charges have been laid will be vetted, redacted and electronically disclosed to the Crown Attorney's office forthwith and not later than fourteen (14) days from the date of arrest/charge.

(Durham Regional Police Service)

For evidentiary disclosure where criminal charges laid: All BWC video/audio evidence where charges have been laid will be vetted, redacted and electronically disclosed to the Crown Attorney's office forthwith and not later than fourteen (14)

days from the date of arrest/charge. For evidentiary disclosure where provincial offence charges laid: All BWC video/audio evidence where provincial offence charges have been laid will be vetted, redacted and electronically disclosed to the POA Prosecutions Office forthwith upon notification that the matter is being set for trial and not later than fourteen (14) days from the date of that notification.

(Thunder Bay Police Service)

If you have disclosure concerns regarding video content (for example, personal address, informant information or undercover officers), note them in the Disclosure Concerns section of the Occurrence Report. ... Occurrence Report: indicate the use of any known [] BWC in the investigative details and exhibit sections of the report. Report to Prosecutor package: mark ICC/BWC Video on the package blue sheet checklist.

(Medicine Hat Police Service)

s.(10 (2)) General Internal Access and Requests.

[21A](#)

Investigators will have access and permissions to view and search BWC video/audio records relevant to investigations assigned to them. Investigators will not be able to alter or delete BWC video/audio records.

(Thunder Bay Police Service)

[21B](#)

May [] permit BWC video to be retained and used for training purposes provided that all proceedings regarding the incident are complete (e.g. any criminal or disciplinary procedures). If BWC video is retained for training purposes...all persons in the BWC video, including officers, have been anonymized or have provided written consent that the BWC video be retained and viewed for training purposes.

(British Columbia Provincial Policing Standards)

[21C](#)

If an officer is involved in a serious injury or death incident, the NCO will seize the officer's BWC.

(Fredericton Police Force)

[21D](#)

BWC recordings are disclosable under existing policies, practices and agreements governing the release of records to the SIU and OIPRD. BWC recordings and records will be considered as Officer Duty Notes for disclosure or release to SIU or OIPRD.

- Witness Officer BWC recordings and records may be disclosed or released upon the direction of the designated SIU Liaison or designated Professional Standards investigator.
- Subject Officer BWC recordings and records may not be disclosed or released without the prior written authorization of the subject officer or their legal counsel;

any such authorized release must be upon the direction of the designated SIU Liaison or Professional Standards investigator.

(Thunder Bay Police Service)

s.(10 (3)) Requests by the Media or Public.

[22A](#)

Must ensure that information about the police force's use of BWC is available to the public on the police force's website, including at minimum:

- The purpose of the BWC program, including when the BWC will be turned on and off;
- For how long BWC video will be retained; and,
- How someone can request access to BWC video.

(British Columbia Provincial Policing Standards)

[22B](#)

Any and all release of BWC recordings must be authorized by and completed through the Freedom of Information Coordinator.

BWC recordings relating to SIU, OIPRD or Professional Standards investigations shall not be released until the investigation and any resultant legal proceeding has concluded.

(Durham Regional Police Service)

(Thunder Bay Police Service)

All requests concerning BWC recordings will be submitted to the Chief of Police. All BWC recordings will be treated in the same manner as all other departmental videos (i.e., interview room and cell block).

(Kentville Police Service)

Other than operational disclosure to Crown, or for an internal investigation, any disclosure of recorded material obtained through IVV or BWV, shall comply with the provisions of Victoria Police Department Policy "AF 70- Security and Confidentiality" and the BC Freedom of Information and Protection of Privacy Act.

(Victoria Police Department)

Section (11) Internal Audits of Adherence to BWC Directive

[23](#)

Must ensure that an internal audit of a random sample of BWC video is conducted and reported on each year to assess compliance with policy and procedures, in particular:

- Whether the BWC recording was in compliance with Standards [];
- Whether BWC video is securely stored;
- Whether any unauthorized viewing has occurred; and,
- Whether BWC video has been deleted as required by Standard [].

(British Columbia Provincial Policing Standards)

Section (12) Consequences for Violating the BWC Directive

[24](#)

Any officer who intentionally disables or damages any part of the video recording or transmitting equipment or who fails to activate or deactivate BWC as required by this policy without reasonable excuse will be held accountable and subject to criminal and/or internal disciplinary action.

(Victoria Police Department)

Section (13) Additional Considerations Relevant to BWC Directives

[25](#)

Live Streaming Video 1:

- The Staff Sergeant will:
 - Authorize any use of live streaming video to monitor an incident in progress; and,
 - Only authorize the use of live streaming video in emergency situations.
- If live streaming of video is required for testing or training purposes, the affected car crew will be asked by radio for their approval before any monitoring takes place.
- If an officer or civilian employee monitors an event on live streaming video that results in a charge, they may be required to complete a witness statement pertaining to the investigation.

(Medicine Hat Police Service)

Section (14) BWC Directive Re-evaluation

[26](#)

This policy will be reviewed within one year of the last review date and updated as necessary.

(Durham Regional Police Service)

(Thunder Bay Police Service)

The BWC policy will be evaluated on an ongoing basis:

- To ensure an appropriate balance is achieved between the needs of law enforcement and the privacy rights of individuals; and,
- To ensure compliance with the Canadian Charter of Rights and Freedoms, the Criminal Code, and provincial legislation.

(Calgary Police Service)

(Fredericton Police Force)

APPENDIX 2:

British Columbia Provincial Policing Standards and Principles

Section 4.0 – Equipment and Facilities	Page 1 of 4
Sub Section 4.2 – Equipment	Effective: July 1, 2019
Subject 4.2.1 – Body Worn Cameras	Revised: n/a

Definitions

“Body Worn Camera” (BWC) – a wearable video and audio recording system.

“Exigent circumstances” – circumstances where a delay in taking action would result in danger to human life or safety or where action is necessary to prevent the continuation of an offence which threatens human life or safety.

“Officer” – a constable appointed under the *Police Act* or an enforcement officer appointed under s. 18.1 of the *Police Act*.

Standards

Prior to deploying body-worn cameras (BWC) to any of its officers, the chief constable, chief officer, or commissioner; and if required under the police force’s policies or guidelines, the Police Board:

Pre-implementation & privacy impact assessment

- (1) Must ensure that a privacy impact assessment (PIA) has been completed and approved by the appropriate head of the public body.
- (2) Must ensure that information about the police force’s use of BWC is available to the public on the police force’s website, including at minimum:
 - (a) The purpose of the BWC program, including when the BWC will be turned on and off as per Standards (5) and (6);
 - (b) For how long BWC video will be retained, as per Standards (20) and (21); and
 - (c) How someone can request access to BWC video.
- (3) Must ensure that written policy exists which covers, at minimum:
 - (a) That only BWCs which are issued by the police force are permitted to be used;
 - (b) The circumstances under which a BWC is permitted to be used to record an encounter, as per Standards (5) and (6);
 - (c) Procedures for processing and storing BWC video;
 - (d) Procedures for accessing and reviewing BWC video;
 - (e) Procedures for processing freedom-of-information requests for BWC video; and
 - (f) Procedures for ensuring that any potential disclosure of BWC video is consistent with applicable provincial or federal privacy legislation.

Training in use of BWC

- (4) Must ensure that officers receive an orientation and training on the use and operation of the BWC equipment as well as the police force's associated policies and procedures prior to being assigned a BWC.

Indiscriminate use not permitted

- (5) Must ensure that the officers assigned BWCs do not use BWCs in a manner that requires or permits full, automatic recording of all calls or continuous recording during patrol.

Mandatory recording of police use of force and violent or aggressive behaviour

- (6) Must require that any officer equipped with a BWC activates their camera as soon as it is safe and practicable to do so when attending a call or responding to an incident where there is a reasonable belief that there will be use of force, or where violent or aggressive behaviour is anticipated or displayed.

Other recordings

- (7) Must ensure that other purposes for which BWCs are used, in addition to mandatory incidents described under Standard (6) above, are consistent with the police force's privacy impact assessment and described in policy, unless there are exigent circumstances that warrant recording an incident; and the exigent circumstances are subsequently documented in the police report.

Activating and deactivating the BWC

- (8) Must require that once the BWC has been activated, it is left on continuously without interruption until the incident is concluded, unless there are exigent circumstances that warrant the BWC being deactivated; and the exigent circumstances are subsequently documented as per Standard (13).
- (9) Must require that officers de-activate their BWC when the incident referred to in Standard (6) or (7) above is concluded.
- (10) Must prohibit officers from deleting BWC video.

Notification

- (11) Must require officers to inform persons at the beginning of every recorded encounter, or as soon as reasonably possible, that they are being recorded, unless to provide this information is unsafe.

Documenting recording and lack of recording

- (12) Must require that officers note the existence of a BWC recording in the police report.
- (13) Must require that if an officer fails to record an incident which should have been recorded, or deactivates the BWC before the incident is concluded, that the officer articulates the reasons for the failure to record in their notes or report, within 12 hours of the end of their shift.
- (14) Must ensure that officers continue to write notes and reports in accordance with existing policy and do not rely on BWC video to replace notes and reports.

Security and access to BWC video

- (15) Must ensure that BWC video is stored in a secure manner, with access restricted to authorized persons.
- (16) Must ensure that BWC video cannot be altered at any time.
- (17) Must ensure procedures restrict the viewing of BWC video only for:
 - (a) Investigative purposes by persons who are authorized to investigate the incident;
 - (b) Training purposes, consistent with Standards (22)–(24) below; or
 - (c) Internal audit purposes, consistent with Standard (25) below.
- (18) Must require that any BWC video is released or viewed only in accordance with applicable law.
- (19) Must require that an audit trail, which is automated and immutable, is maintained of all persons, dates and times when BWC video was accessed, and what action the user took.

Retention of BWC video

- (20) Must ensure that any BWC video retained as evidence in relation to an offence or complaint is kept for the relevant retention periods in accordance with applicable provincial and federal legislation.
- (21) Must ensure that any BWC video which is not covered by Standard (20) above, is retained for one year from the day after it was recorded, and then promptly deleted.

Retention of video for training purposes

- (22) May, notwithstanding Standards (17), (20) and (21), permit BWC video to be retained and used for training purposes provided that all proceedings regarding the incident are complete (e.g. any criminal or disciplinary procedures).

- (23) Must ensure, if BWC video is retained for training purposes according to Standard (22), that all persons in the BWC video, including officers, have been anonymized or have provided written consent that the BWC video be retained and viewed for training purposes.
- (24) Must ensure that when seeking consent for the purposes of Standard (23) above, that:
- (a) Consent is not sought until after all proceedings regarding the incident are complete (e.g. any criminal or disciplinary procedures); and
 - (b) The purpose for which the BWC video will be used is explained in writing.

Internal audits

- (25) Must ensure that an internal audit of a random sample of BWC video is conducted and reported on each year to assess compliance with policy and procedures, in particular:
- (a) Whether the BWC recording was in compliance with Standards (5) to (9), and (11) to (14);
 - (b) Whether BWC video is securely stored;
 - (c) Whether any unauthorized viewing has occurred; and
 - (d) Whether BWC video has been deleted as required by Standard (21).

Maintenance of equipment

- (26) Must ensure that responsibility for maintaining the BWC equipment in good working order is clearly assigned.

Policies and procedures

- (27) Must ensure policies and procedures are consistent with these *BC Provincial Policing Standards*.

BCPPS 4.2.1 Body Worn Cameras

The purpose of the BC Provincial Policing Standards for Body Worn Cameras (BWCs) is to ensure consistency in the way that critical aspects of BWC use are addressed by police agencies that have chosen to implement this technology. BWCs involve potential benefits but also potential risks. Standardizing key aspects of their use is intended to help mitigate these risks and promote an appropriate balance between the use of BWCs as an evidence gathering tool, and the need to safeguard privacy and other rights, and manage costs.

- **Viewpoints on BWCs vary significantly.** A wide range of interest groups and stakeholders cite different reasons for both supporting and being concerned about the use of this technology. These perspectives must be appropriately balanced so that BWCs can help the police do their job while also fostering the community's trust in the police.
- **BWCs can enhance evidence gathering for the police.** BWCs can provide an independent record of events, which can be used as evidence during a police investigation or prosecution. The adoption of this technology might thereby contribute to a more efficient and effective criminal justice system.
- **BWCs can increase accountability.** Video recordings of interactions between police and citizens can also provide evidence to be used in investigations of alleged police misconduct. Some studies have determined that BWCs have the potential to improve the behaviour of both police officers and citizens, and reduce complaints. To realize these potential benefits, there must be consistent and appropriate use of the technology; there should never be unexplained gaps in BWC recordings.
- **Privacy protections must be safeguarded.** Steps must be taken to ensure that any adoption of BWC technology by police agencies in British Columbia does not result in violations of existing privacy rights and associated legislation. Unauthorized viewing or distribution of BWC footage cannot be allowed, and the retention periods for BWC videos should be as short as possible without preventing the technology from assisting with an investigation or serving as an accountability tool.
- **Video can be a powerful tool, but it does not show the whole picture.** There will almost always be aspects of an incident described by witnesses but not captured by BWC footage and vice versa. Human perception is influenced by many factors including training and past experience, which BWC footage will not reflect. It is important to remember that BWCs are not a stand-alone solution.

BCPPS 4.2.1 Body Worn Cameras

- **BWCs are a resource-intensive technology.** Police agencies that consider implementing BWCs will need to weigh the costs of the technology (such as purchasing and maintaining the equipment, training staff, and securely storing, processing and disposing of footage) against the potential benefits, while taking into account other local policing priorities. The BC Provincial Policing Standards for BWCs do not require police agencies in British Columbia to implement BWCs, but rather set requirements for those agencies choosing to do so.

APPENDIX 3:

Guidance on BWV from the Office of the Privacy Commissioner of Canada

*Note that hyperlinks in the appendix document will not work as it is a pasted image, but you can access the original document and relevant hyperlinks at:

https://www.priv.gc.ca/media/1984/gd_bwc_201502_e.pdf

GUIDANCE FOR THE USE OF BODY-WORN CAMERAS BY LAW ENFORCEMENT AUTHORITIES



This guidance document aims to identify some of the privacy considerations law enforcement authorities should take into account when deciding whether to outfit law enforcement officers with body-worn cameras. Also described is the privacy framework that should be part of any law enforcement body-worn camera program in order to ensure compliance with Canada's personal information protection statutes.

This document is endorsed by:

Office of the Privacy Commissioner of Canada

Office of the Information and Privacy Commissioner of Alberta

Office of the Information and Privacy Commissioner for British Columbia

Manitoba Ombudsman

Office of the Access to Information and Privacy Commissioner - New Brunswick

Office of the Information and Privacy - Newfoundland and Labrador

Office of the Information and Privacy Commissioner of the Northwest Territories

Nova Scotia Freedom of Information and Protection of Privacy Review Office

Office of the Information and Privacy Commissioner of Nunavut

Office of the Information and Privacy Commissioner of Ontario

Office of the Information and Privacy Commissioner of Prince Edward Island

Commission d'accès à l'information du Québec

Office of the Saskatchewan Information and Privacy Commissioner

Office of the Yukon Information and Privacy Commissioner

Guidance for the use of body-worn cameras by law enforcement authorities

Introduction

This guidance document aims to identify some of the privacy considerations law enforcement authorities¹ (LEAs) should take into account when deciding whether to outfit law enforcement officers with body-worn cameras (BWCs). Also described is the privacy framework that should be part of any law enforcement BWC program in order to ensure compliance with Canada's personal information protection statutes. This guidance is meant to support LEAs in developing policies and procedures governing the use of BWCs. It relates to the *overt* use of BWCs, that is, BWCs that are used in view of the public and with the understanding that the public has been informed of their deployment. The covert use of BWCs is not addressed through this guidance.

This document was developed by the Office of the Privacy Commissioner of Canada in collaboration with the privacy oversight offices in [Alberta](#), [New Brunswick](#), and [Quebec](#) and in consultation with the privacy oversight offices in [British Columbia](#), [Manitoba](#), [Newfoundland and Labrador](#), [Northwest Territories](#), [Nova Scotia](#), [Nunavut](#), [Ontario](#), [Prince Edward Island](#), [Saskatchewan](#) and [Yukon](#).

Apart from requirements under personal information protection statutes, the use of BWCs can implicate other obligations of which LEAs need to be aware. For example, BWCs can record video images, sound and conversations with a high degree of clarity. Thus, there may be additional concerns raised under the *Canadian Charter of Rights and Freedoms*, the *Criminal Code*, or provincial legislation², for example, whether the use of BWCs in any given context intrudes on the public's reasonable expectation of privacy or constitutes an interception of private communications, including in places accessible to members of the public. LEAs also need to be mindful of additional legal implications whenever images and sound are recorded in private spaces, such as inside people's homes or vehicles.

BWCs and privacy

BWCs are recording devices designed to be worn on a law enforcement officer's uniform, which can include glasses or helmets. They provide an audio-visual record of events from an officer's point of view as officers go about their daily duties. The high-resolution digital images allow for a clear view of individuals and are suited to running video analytics software, such as facial recognition. Microphones may be sensitive enough to capture not only the sounds associated with the situation being targeted but also ambient sound that could include the conversations of bystanders.

¹ This constitutes government agencies responsible for enforcing laws and includes, but is not limited to, police forces.

² For example, in Québec, the *Charter of Human Rights and Freedoms* or the *Civil Code of Québec*.

BWC technology represents a significant increase in sophistication from the early days of fixed cameras, when CCTV systems were being widely adopted and could only record images and not sound. At that time, a number of Canadian privacy oversight offices issued video surveillance guidelines for the public sector, which are set out at the end of this document. While the basic privacy principles around video surveillance remain the same, the environment is now much more complex. As surveillance technologies evolve, ever larger amounts of personal information (both video and audio) are being collected in increasingly diverse circumstances (both static and mobile) with the potential of being linked with yet other personal information (e.g. facial recognition, metadata). It is understandable that LEAs would want to consider using new technologies to aid them in performing their duties. At the same time, however, BWC technology poses serious implications for individuals' right to privacy. We believe that addressing privacy considerations from the outset can allow an appropriate balance to be achieved between the needs of law enforcement and the privacy rights of individuals.

Body-worn cameras capture personal information

Canadian personal information protection statutes generally define personal information as being "about an identifiable individual."³ Under Québec's *Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information*, personal information is "any information which relates to a natural person and allows that person to be identified."

Generally speaking, the aim of a BWC program is to record law enforcement officers' interactions with the public in the course of their duties. BWCs are generally used for collecting evidence, and protecting officers against unfounded allegations of misconduct. Another significant argument for BWCs is enhancing officer accountability and professionalism. Given this context, and the increasing quality of recordings and sensitivity of microphones, the images and sound captured by BWCs for the most part will be about identifiable individuals. The recordings will thus be considered to contain personal information and will be subject to Canada's personal information protection statutes.

In addition to images and sound, BWCs can also generate metadata, which can include transactional information about the user, the device and the activities taking place. Metadata can include date, time, location and duration of the recorded activities, which, when connected to an identifiable individual, can be personal information⁴.

What is the right balance between privacy and law enforcement needs?

There are various reasons why a LEA might contemplate adopting BWCs. LEAs could view the use of BWCs as bringing about certain benefits to policing or other enforcement activities. For

³ The case law at the federal level has generally held that information will be about an identifiable individual if it permits or leads to the possible identification of the individual, whether alone or in combination with other available information.

⁴ For further information on metadata, please see the Ontario OIPC's "[A Primer on Metadata: Separating Fact from Fiction](#)" and/or the OPC's "[The Risks of Metadata](#)"

example, in addition to being used to collect evidence, BWCs have been associated with⁵ a decrease in the number of public complaints against police officers as well as a decrease in the use of force by police officers. At the same time, BWCs have significant privacy implications that need to be weighed against the anticipated benefits. As the Supreme Court of Canada has noted⁶, an individual does not automatically forfeit his or her privacy interests when in public, especially given technological developments that make it possible for personal information “to be recorded with ease, distributed to an almost infinite audience, and stored indefinitely”. And as the Supreme Court added more recently, the right to informational privacy includes anonymity which “permits individuals to act in public places but to preserve freedom from identification and surveillance.”⁷

The use of BWCs inside private dwellings brings up special considerations, such as the higher likelihood that individuals will be recorded in highly personal situations. Before proceeding with a BWC program, LEAs should identify their lawful authority for collecting personal information using BWCs. Generally, under public sector personal information protection statutes, public bodies may only collect the information they need to meet the purposes of their mandated programs and activities. As a second step, LEAs should evaluate whether the anticipated benefits of adopting BWC technology outweigh the resulting privacy intrusions. In other words, is it appropriate to equip officers with cameras given the privacy implications they raise?

Privacy oversight offices have found it useful to use a four-part test to evaluate whether a proposed measure can be justified despite an intrusion on individual privacy. The test of “what a reasonable person would consider appropriate in the circumstances” provides a useful basis for LEAs in setting out the rationale for adopting BWCs. LEAs should be guided by this four-part test as set out below in determining whether to implement BWCs.

Necessity

There must be a demonstrable operational need that a BWC program is meant to address. What operational needs do LEAs have for which BWCs are a solution?

BWCs should not be adopted simply because they may be considered a popular enforcement tool. They must be judged necessary to address specific operational circumstances in the jurisdiction they are deployed in.

Effectiveness

Are BWCs likely to be an effective solution to the operational needs that have been identified? LEAs should be mindful of the limitations of technology. Aspects of incidents may happen out of camera range, sound recordings may be incomplete due to range or background noise, or human error may compromise the usefulness of recordings and diminish their effectiveness. If recordings are meant to be used as evidence in court proceedings, LEAs should consider the requirements identified by Courts for accepting recordings as evidence as well as the evidence collection and retention measures proposed to ensure those requirements are satisfied.

⁵ See article [*Self-Awareness to Being Watched and Socially-Desirable Behavior: A Field Experiment on the Effect of Body-Worn Cameras on Police Use-of-force.*](#)

⁶ *Alberta (Information and Privacy Commissioner) v. United Food and Commercial Workers, Local 401*, 2013 SCC 62 at para. 27.

⁷ *R. v. Spencer*, 2014 SCC 43

Proportionality

Without a doubt, the use of BWCs will result in a loss of privacy because recording individuals' actions and conversations is inherently privacy invasive. As such, any privacy intrusion must be minimized to the extent possible and offset by significant and articulable benefits. With new technology, it may be difficult to foresee the full spectrum of positive and negative effects on day-to-day enforcement and the community being served. Undertaking a pilot project is highly recommended as a practical way of evaluating the privacy impacts of BWCs in relation to their benefits, before deciding whether or not to deploy them, how broadly, and in what circumstances.

Alternatives

A final consideration is whether a less privacy-invasive measure would achieve the same objectives. While there may be a business case for a BWC program, alternative measures should be considered to see whether they can adequately address operational needs with less adverse impact on privacy. The least privacy invasive measure is the preferred choice.

Privacy Impact Assessments

As a highly recommended best practice, a Privacy Impact Assessment (PIA) should be completed prior to the use of BWCs to help identify the potential privacy risks of the BWC program. A PIA can be invaluable in helping LEAs eliminate those risks or reduce them to an acceptable level. For example, there may be additional considerations, such as context and cultural sensitivities, that should be considered in deciding whether to use BWCs in particular situations. A PIA should include a plan for consulting and engaging with the community where BWCs are to be deployed.

LEAs can also seek the aid of privacy experts before implementing a BWC program. Privacy experts can study the proposed use of BWCs in the community to ensure that any collection and use of personal information is done with a view to upholding obligations under privacy legislation.

Secondary uses

Employee privacy should also be taken into account. BWCs can capture law enforcement officers' personal information, which is protected under most public sector privacy laws. Potential areas of concern include using BWC recordings to support employee performance evaluations. Employees may also have privacy rights under other laws and collective agreements that may affect a BWC program.

If use of recordings is contemplated for any purposes that are supplementary to the main BWC program purposes, for example, officer training, research, or performance evaluation, these secondary purposes need to be reviewed to ensure compliance with applicable legislation, and employees need to be well informed of them. In addition, criteria should be established to limit the privacy impact, such as blurring of faces and any identifying marks, and excluding recordings with sensitive⁸ content.

⁸ LEAs should determine criteria for designating sensitive content, with input from the affected community, and ensure a higher level of protection for such recordings.

Pilot projects

The considerations in implementing a BWC program are complex, and pilot projects are recommended as an important precursor to widespread adoption. It is generally good practice, when deploying new technologies, to try them out in the field on a limited basis. If a LEA decides that adopting BWCs is appropriate, a pilot project would demonstrate how BWCs actually perform in their specific environment and whether this technology produces useful results that satisfy the intent of the program. The pilot project could also inform the crafting of a clear policy framework, applicable training requirements, and required supervision.

Evergreening PIAs

After a BWC program has been adopted, additional PIAs are recommended as a best practice any time significant modifications to the program are contemplated. Significant modification would include a new collection of personal information and the introduction of new technologies or analytical tools.

Notifying the public

LEAs should make a reasonable effort to inform the public that officers are equipped with BWCs and that people's actions and words may be recorded when they interact with, or are in the vicinity of, law enforcement officers. Transparency is integral to the public's ability to exercise their rights under privacy laws.

Public awareness of the use of BWCs can be raised through the local media, social media campaigns, and on LEA websites. Individuals should be advised if BWCs are used, for what purpose, in what circumstances, under what authority and who they can contact in case of questions. As part of their commitment to fostering public awareness, LEAs should consider reminding the public that individuals have a right to access their own personal information, as well as a right to request access to information generally under freedom of information laws that apply to BWC recordings.

Notification is also important in encounters between law enforcement officers and the public. Should non-uniformed officers use BWCs, there is an increased risk that the public will be unaware that recording may potentially take place.

While BWCs are visible on the officer's uniform or glasses, they may not be noticed by individuals, particularly in stressful situations. Individuals also may not be aware that sound is being recorded in addition to images.

Law enforcement officers should be required to notify people of recording both images and sound whenever possible. Officers could make a short statement that meets notice requirements under applicable legislation in their jurisdiction. A prominent pin or sticker on the officer's uniform could also be an option depending on the circumstances.

Continuous versus intermittent recording

One of the most important operational decisions LEAs must make in implementing a BWC program is whether BWCs should record continuously or whether officers should have the

discretion or duty to turn them on and off, and, in either scenario, under what circumstances. These choices have important implications for privacy.

From an accountability perspective, continuous recording may be preferable because it captures an unedited recording of an officer's actions and the officer cannot be accused of manipulating recordings for his or her own benefit. However, from a privacy perspective, collecting less or no personal information is always the preferred option. The less time BWCs are turned on, the less personal information they will collect. Minimizing the personal information collected decreases the risk that personal information will be used or disclosed for inappropriate or unintended purposes. This applies both to members of the public whose personal information is recorded by BWCs as well as law enforcement officers. There may be times during an officer's workday that having the camera turned on would not capture any information related to evidence collection or any other stated purpose of the BWC program, for example, when the officer is "standing by" or doing paperwork. LEAs also have a responsibility to respect officers' personal privacy when off-duty or on personal time. As for recording the public, LEA programs should take into account situations that merit heightened privacy protections, such as when officers enter private dwellings.

In general, it will be difficult for LEAs to justify the necessity of continuous recording. Recording may be more readily justified, however, in relation to carefully defined incidents or operational requirements.

If intermittent recording is implemented, there should be strict criteria for turning cameras on and off, including criteria for determining whether the officer should have control in turning the cameras on or off, or whether this should be done remotely.

The criteria developed should take into account fundamental freedoms, human rights, cultural sensitivities and any significant concerns expressed by the affected community.

Try to avoid recording bystanders

The criteria for activating cameras should address the need to minimize, to the extent possible, the recording of innocent bystanders or innocuous interactions with the public. Admittedly, it may not be possible to completely eliminate capturing images and audio of bystanders and other non-targeted individuals. With regard to recordings that are not implicated in an investigation (i.e. non-flagged recordings), setting and respecting limited and appropriate retention periods, and restricting access and viewing to a need-to-know basis will help mitigate the privacy implications.

With regard to recordings that have been flagged for use as evidence or for another previously specified purpose, technical means should be employed to mitigate the privacy risk. Within the rules of evidence, and in particular, the jurisprudence with respect to the reliability of evidence, images of bystanders and other non-targeted individuals should be anonymized, for example, through face blurring, and the distortion of sound wherever possible.

If images and/or audio are shared with the public for the purpose of identifying someone, other persons in the images should be obscured, with measures taken to safeguard the evidentiary integrity and reliability of the recording.

Proper safeguards, retention, destruction and storage of BWC recordings

Under privacy legislation, LEAs are responsible for protecting personal information from unauthorized access or use, disclosure, copying, modification and destruction, as well as loss and theft. Reasonable steps must be taken to safeguard recordings, such as:

- encrypt recordings and store them on a secure server;
- restrict access to recordings, on a need to know basis;
- edit-proof video and audio; and,
- implement an audit trail to provide assurance that recordings have not been modified or accessed inappropriately.

LEAs contemplating storing BWC recordings in the cloud should be mindful of potential security concerns as well as any legal constraints that may apply in their jurisdiction. For example, British Columbia's *Freedom of Information and Protection of Privacy Act* and Nova Scotia's *Personal Information International Disclosure Protection Act* may not allow public bodies to store personal information outside of Canada. Québec's *Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information* imposes certain conditions on the storage of personal information outside the province.

In light of the significant privacy implications of BWCs, strict retention periods should be imposed, taking into account the requirements of all applicable legislation. Setting and respecting retention periods will limit any opportunities for inappropriate disclosure or misuse of the information, including the potential for monitoring individuals without reasonable suspicion or probable cause.

Retention policies for flagged recordings, including recordings to be used as evidence, should be consistent with applicable laws, such as the *Canada Evidence Act* and the applicable *Police Services Act*. Under Canada's privacy laws, personal information that has been used in making a decision affecting an individual needs to be retained for a sufficient period so as to afford individuals a reasonable opportunity to access it and challenge its accuracy. Recordings that have not been flagged as relevant to an investigation or potential legal action should have the shortest possible retention period.

When the retention period is up, recordings should be disposed of in a secure manner in accordance with applicable policies⁹ and regulations.

There should be systems in place to ensure that safeguarding, retention and destruction policies are respected.

Use of video analytics

Any plans to use video analytics in conjunction with BWCs should be carefully considered with regards to the initial justification of the program. With advances in technology, we are gaining increasing ability to search and analyze digital footage in increasingly sophisticated ways.

⁹ At the federal level, please refer to Community Security Establishment's IT Security Guidance document "[Clearing and Declassifying Electronic Data Storage Devices](#)" and the OPC's "[Personal Information Retention and Disposal: Principles and Best Practices](#)." In Québec, please see the "[Guide to the destruction of documents that contain personal information](#)" published by the Commission d'accès à l'information du Québec.

Databases of camera footage can be mined for information about specific individuals or specific activities. Previously anonymous individuals can be identified and tracked.

Technologies such as licence plate recognition, facial recognition and pattern recognition can be used in identifying, tracking and compiling dossiers on individuals. LEAs' use of video analytics technology raises additional privacy concerns that require further scrutiny and care beyond the scope of this guidance.

At this time, we simply observe that if the use of such analytics can be justified under privacy laws, the capability to analyze recordings must be carefully managed so as not to exceed the documented purposes of the BWC program. Integrating recordings with video or audio analytics should only be considered on a case-by-case basis, under very limited circumstances to be determined by the head of the LEA involved, and subject to a new PIA as necessary.

Individual access

Federal, provincial and territorial privacy laws grant individuals a right of access to their personal information, including that contained in audio and video recordings made using BWCs. This right is subject to specific exemptions such as law enforcement and investigation.¹⁰ Under freedom of information legislation, individuals have the right to request access to information held by public bodies. LEAs should establish a process for responding to requests for information contained in BWC recordings. When providing access, care should be taken to ensure that the personal information of individuals other than the requester, such as their image and/or voice, wherever possible, is protected.

Documenting policies and procedures

As part of any BWC program, LEAs should establish written policies and procedures that clearly identify the program objectives and set out the rules governing the program. These policies and procedures should include the elements listed below.

Governance and accountability

- The rationale for deploying BWCs, including the program purposes and operational needs.
- The legislative authorities for collecting personal information under the program.
- Roles and responsibilities of staff with regard to BWCs and their recordings.
- Criteria for context-specific continuous recording and/or turning BWCs on and off, as applicable.
- Provision for an operational guide and training for employees to ensure that officers understand the privacy implications of BWCs and are aware of their responsibilities under these policies and procedures.
- Privacy protections for employees whose personal information is captured by BWCs.
- The allocation of responsibility for ensuring that BWC policies and procedures are followed, with overall accountability resting with the head of the organization.
- The consequences of not respecting the policies and procedures.
- Individuals' right of recourse. Individuals should be informed that they have a right to make a complaint to the LEA's privacy oversight body regarding the management of a

¹⁰ Please address any questions about specific exemptions to the privacy oversight office in your jurisdiction.

recording containing personal information to determine whether a breach of privacy law has occurred.

- The requirement that any contracts between LEAs and third-party service providers specify that recordings remain in the control of LEAs and are subject to applicable privacy laws.
- A provision for regular internal audits of the BWC program to address compliance with the policy, procedures and applicable privacy laws. The audit should include a review of whether BWC surveillance remains justified in light of the stated purposes of the program.
- In jurisdictions with a PIA policy, a provision for PIAs whenever there are significant modifications to the program.
- The name and contact information of an individual who can respond to questions from the public.

Use and disclosure of recordings

- The circumstances under which recordings can be viewed. Viewing should only occur on a need-to-know basis. If there is no suspicion of illegal activity having occurred and no allegations of misconduct, recordings should not be viewed.
- The purposes for which recordings can be used and any limiting circumstances or criteria, for example, excluding sensitive content from recordings being used for training purposes.
- Defined limits on the use of video and audio analytics.
- The circumstances under which recordings can be disclosed to the public, if any, and parameters for any such disclosure. For example, faces and identifying marks of third parties should be blurred and voices distorted wherever possible.
- The circumstances under which recordings can be disclosed outside the organization, for example, to other government agencies in an active investigation, or to legal representatives as part of the court discovery process.

Safeguards and response to breaches

- The security safeguards employed to ensure that recordings are not inappropriately accessed or altered.
- A mechanism for dealing with any breaches whereby personal information is accessed without authorization or disclosed contrary to the provisions of applicable privacy laws.

Access to recordings by individuals

- A process for responding to requests for access¹¹ to recordings, including access to personal information and access to information requests under freedom of information laws, as well as individuals' requests for correction of their personal information. This includes the name and contact information of the individual to whom such requests for access to should be directed.

¹¹ LEAs should have the capability to redact third party personal information to facilitate access, for example, blurring of faces.

Retention and destruction of recordings

- Retention periods and disposal provisions.

These policies and procedures should be made available to the public to promote transparency and accountability. Demonstrating to the public that policies and procedures exist and officers are accountable for following them is essential to ensuring that individuals' privacy rights are adequately protected. The documentation should also reflect evidence of community consultation and engagement as well as an understanding of cultural sensitivities.

Conclusion

BWCs record not only the actions and speech of an individual, but also individuals' associations with others within recording range, including friends, family members, bystanders, victims and suspects. The recording of individuals through the use of BWCs raises a significant risk to individual privacy, and LEAs must be committed to only deploying BWCs to the degree and in a manner that respects and protects the general public's and employees' right to personal privacy.

References

Tony Farrar and Dr. Barrar Ariel. "[Self-awareness to being watched and socially-desirable behavior: A field experiment on the effect of body-worn cameras on police use-of-force](#)," Police Foundation, March 2013.

David A. Harris. "[Picture this: body worn video devices \("Head cams"\) as tools for ensuring fourth amendment compliance by police](#)," University of Pittsburgh School of Law, April 2010.

The Honourable Frank Iacobucci. "[Police Encounters with People in Crisis](#)," An independent review conducted for Chief of Police William Blair, Toronto Police Service. July 2014.

Police Executive Research Forum. "[Implementing a Body-Worn Camera Program](#)," U.S. Department of Justice, Community Oriented Policing Services, 2014.

Jay Stanley. "[Police Body-Mounted Cameras: With Right Policies in Place, a Win For All](#)," ACLU, October 2013.

The Urban Institute Justice Policy Center. "[Using Public Surveillance Systems for Crime Control and Prevention: A Practical Guide for Law Enforcement and Their Municipal Partners](#)," September 2011.

U.K. Home Office. "[Surveillance Camera Code of Practice](#)," June 2013.

U.S. Department of Justice. "[A Primer on Body-Worn Cameras for Law Enforcement](#)," Office of Justice Programs, National Institute of Justice, September 2012.

Public sector video surveillance guidance from Canadian privacy oversight bodies

Office of the Information and Privacy Commissioner for British Columbia. "[Public Sector Surveillance Guidelines](#)," 2014.

Office of the Information and Privacy Commissioner of Saskatchewan. "[Guidelines for Video Surveillance by Saskatchewan Public Bodies](#)."

Office of the Manitoba Ombudsman. "[Video Surveillance Guidelines](#)." February 2015.

Office of the Information and Privacy Commissioner of Ontario. "[Guidelines for the Use of Video Surveillance Cameras in Public Places](#)," 2007.

Commission d'accès à l'information du Québec. "[Rules for use of surveillance cameras with recording in public places by public bodies](#)," June 2004.

Office of the Access to Information and Privacy Commissioner of New Brunswick. "[Best Practice – Video Surveillance](#)," April 2014.

Office of the Information and Privacy Commissioner for Newfoundland and Labrador. "[Guidance for the Use of Video Surveillance Systems in Schools](#)," February 2013.

Office of the Information and Privacy Commissioner for Newfoundland and Labrador. "[Guidelines for Video Surveillance by Public Bodies in Newfoundland and Labrador](#)," May 2005.

Nova Scotia Freedom of Information and Protection of Privacy Review Office. "[Freedom of Information and Protection of Privacy Review Office Video Surveillance Guidelines](#)."

Office of the Yukon Information and Privacy Commissioner. "[Guidance for Public Bodies on the Use of Video Surveillance](#)," 2014

Office of the Privacy Commissioner of Canada. "[OPC Guidelines for the Use of Video Surveillance of Public Places by Police and Law Enforcement Authorities](#)," March 2006.