In the past few years, there has been an increased push for law enforcement to wear body cameras to capture their interactions with the public. In 2015, the Department of Justice funded $23 million to 32 states to pilot body-worn cameras (BWC). In a 2015 survey of 70 major cities & counties by Major Cities Chiefs Association and Major County Sheriffs' Association (2015), 30% of the survey respondents intend to implement BWC, 49% of agencies were in the pilot phase or have just completed their pilot, and 18% of agencies are fully operational.

An impetus for equipping officers with body-worn cameras was largely in the wake of several high-profile incidences of officer-involved shootings and the capture of these shootings on video by bystanders. As a result, there is a growing demand for officers themselves to wear BWC. However, the video captured from BWC are being used in lots of different ways and, as such, there are many issues to consider, particularly for those working with victims of domestic violence and sexual assault.

One of the major concerns, particularly for victims of domestic violence and sexual assault victims, is privacy. A person who has just experienced a traumatic assault or rape may not want to be recorded. Moreover, the unintended privacy and safety consequences of a recording between officer and victim are unknown because the use of BWC is still so new. Anecdotally, however, there has been instances in which the safety planning conversation between the officer and victim was captured and inadvertently shared with the abuser’s attorney. Below are some issues to consider when developing policies around the use of BWC.

**Turning Off the Camera**

The major drive behind BWC is that it will document officer interactions with the public and may capture inappropriate behavior and could ensure accountability by officers and promote better behavior by both officer and citizens. However,
there may be times when turning the camera off might be safer and more confidential for domestic violence and sexual assault victims.

**At the request of the victim.** When interviewing victims, she/he should have the choice of having the camera stay on or be turned off. Ideally, victims should be informed of why the camera is on and what the video footage will be used for. Knowing the purpose of the camera and how the video will be used will help victims make informed decisions based on their own privacy needs.

**When safety planning with the victim.** When an officer is speaking with the survivor about where they can go for safety, who they can talk to, and services they can access, this conversation should not be recorded. Both camera and audio should be turned off.

**When the victim is speaking with a professional in a privileged conversation.** When officers are responding to a situation in which a healthcare professional or a domestic violence or sexual assault advocate or counselor is present and speaking with the victim, officers should turn off the camera and audio to ensure that the conversation isn’t recorded. There should already be procedures for officers when survivors are having privileged conversations. The use of BWC should not alter, purposely or inadvertently, those procedures.

**Access to the BWC Video**
A major privacy concern for victims of domestic violence and sexual assault is who will have access to the BWC video. Some states have included in their legislation or policy guidelines who can have access and under what circumstances. Policies should ensure that access is limited and that the privacy of victims, witnesses (which may include children), and bystanders be considered.

**Access to the public should be limited.** Many states have privacy protections for sexual assault and domestic violence victims because of the sensitivity of these crimes. At the absolute minimum: videos of victims, witnesses, and minors should be considered private. In some states, whether BWC video is private or public or if there are privacy exemptions for specific individuals depends on the state’s open records laws on police data. Where state laws that protect victim privacy exist,
the release of BWC video should follow those protections; where state laws do not exist or cover BWC video, the release of BWC video should be as protective of victim privacy as possible.

**Media and public interest:** There may be circumstances where there is media or public interest in a particular domestic violence or sexual assault case, particularly if it is a high-profile case, and there is a demand that BWC video be released. In these cases, it is important to weigh the value of public interest against the emotional and privacy concerns of the victim. If there is significant value in releasing the BWC video, take all precautions necessary to protect the victim’s privacy, including redaction and blurring faces.

**Internal uses (reviews & trainings):** BWC should only be shared internally within the agency for legitimate purposes. If used for training purposes, law enforcement agencies should ensure that BWC video is for internal use only and not for community training or awareness raising purposes.

**Evidence Collection & Prosecution**
One of the ways in which BWC video is being used is as evidence in legal proceedings. Both law enforcement and prosecutors should be aware of unintended consequences when using BWC video.

**Redact where appropriate:** Information that is not necessary should be redacted or blurred. This could include images of minors and witnesses or confidential or private location, including identifiers that may reveal location (for example a confidential shelter). Keep in mind that for victims of domestic violence, sexual assault, and stalking, their privacy and confidentiality is critical to their safety.

**False expectation of consistent victim statements or reaction:** When anyone experiences trauma, their memory of what happened, how they react, or what they may say and do differs from victim to victim. Anyone who doesn’t understand the effect of trauma may assume that inconsistent statements or unexpected reactions to trauma (such as uncontrolable giggles) could indicate that the victim is lying or that a crime didn’t occur.
**BWC video does not take the place of comprehensive investigation:** BWC video merely shows one perspective and viewpoint and should not take the place of a thorough investigation by a trained officer. Officer reports, testimonies from witnesses, and other types of evidence should still be collected and used in prosecution. Prosecutors should not lift up BWC video as more persuasive or reliable than other forms of evidence and should urge jurors to consider all evidence. Otherwise, jurors and even prosecutors may assume that unless BWC video is presented, there is doubt to the offender’s guilt or innocence – a result of the “CSI effect.”

**Access by the defense:** In a criminal proceeding, evidence available to the prosecution may be also available to the defense. When officers respond to a domestic violence/sexual assault case, a lot of information is shared, given, or witnessed. Some of that information may not be necessary in a criminal proceeding. For example, some officers may safety plan with the victim and discuss details such as safe places the victim could go. If that information isn’t redacted, where the victim goes, who she/he talks to, and what she/he does could be given to the defense and, by extension, the abuser.

**ADDITIONAL INFORMATION**

- Police Body Cameras in Domestic and Sexual Assault Investigations: Considerations and Unanswered Questions. Sandra Tibbets Murphy, Battered Women’s Justice Project.
- Bureau of Justice Body Worn Camera Toolkit

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