



Royal College *of*
Emergency Medicine

Best Practice Guideline

Body Worn Video Cameras (BWVC) Worn by Police Accompanying Patients in the Emergency Department



Faculty of Forensic
& Legal Medicine
Royal College of Physicians

Raising standards in forensic & legal medicine;
protecting vulnerable people



December 2025

Summary of recommendations

1. Emergency Departments should ensure clinical care is not compromised by the presence of police body worn video cameras (BWVC).
2. Police Officers should announce when they are using BWVC.
3. Any police recording in the Emergency Department should be carefully considered and justified, using the policing principles for using BWVC.
4. In instances where police officers are recording during a consultation, privacy and dignity should remain paramount. This can be achieved by police officers remaining outside a curtain or screen, turning their back, obscuring the camera lens, or switching to audio only.
5. If there is an objection to BWVC usage, then a clear explanation of why recording is taking place should be given.
6. If it is felt by clinicians that a police officer using a BWVC is not appropriate, then clear reasons should be communicated with the officer.
7. Where a difference in professional opinion exists, a discussion should occur between clinician and officer. If unresolved, the clinician should request that the police officer get advice from their senior.
8. BWVC recordings should not be used in lieu of a formal written witness statement by hospital staff.

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Scope

This guidance has been developed to assist Emergency Department (ED) staff in managing patients who attend the ED accompanied by police officers wearing body worn video cameras (BWVC). It does not cover situations where Emergency Department staff in some hospitals now also wear BWVC.¹⁰

Reason for development

Disagreements between police officers and ED staff have arisen due to the use of BWVC. The priorities of ED clinicians and police officers are initially to preserve life but following this can be disparate. This guidance has been written to provide a unified and multi-agency response to these scenarios so that potential conflict can be minimised, and patient care can be maintained at the highest standard.

This guideline has been produced as part of a collaborative project between the Royal College of Emergency Medicine, the National Police Chief's Council, and the Faculty of Forensic & Legal Medicine.

Introduction

Patients may attend the Emergency Department accompanied by police for a variety of reasons. There are also times where the police may become involved with a patient after they have arrived in the ED.

BWVC records interactions with the public and can enhance policing by:

- Effectively providing an impartial and independent witness account of an incident. This footage may provide valuable information for the police, the criminal justice system and promote public safety.
- De-escalating situations, improving transparency, and ensuring accountability.
- Benefitting the prosecution or defence and bringing offenders to justice in criminal cases.
- Improving public confidence by helping to ensure the integrity of actions and that police powers are correctly used, fostering trust to improve relations between the police and communities.
- Protecting officers from false claims made by individuals and enable complaints to be dealt with in a more prompt and efficient manner.

Common law enables the police to use BWVC in the lawful execution of duties, to protect life and property, preserve order, prevent the commission of offences, and bring offenders to justice¹. There is currently no specific legislation which covers BWVC use so several laws such as the Data Protection Act² and the Human Rights Act³ need to be considered and applied to different scenarios.

The Information Commissioner's Office (ICO) have guidance on CCTV which can extend to BWVC⁴. It is acknowledged that BWVC may be more intrusive than CCTV and that any recording must be necessary, proportionate and address a particular need.

Right to Privacy

Article 8 of the Human Rights Act 1998³ includes the right to a private life. This is very broad but includes who sees and touches one's person. This is a non-absolute right meaning that a public body can interfere with the right if it is in accordance with the law for example to prevent crime. If a public body uses cameras in a manner which affects this right then it must be lawful, for a legitimate aim and proportionate. This means that any recording beyond that necessary for policing purposes should not occur. When proportionate use is considered, video recording should be conducted in a way which minimises restriction of an individual's rights. So, for example, if it is lawful and legitimate for recording to occur but a patient is in a state of undress, the officer could change to audio recording only, obscure their camera, step outside the examination curtain or turn their back. This approach allows continuity of a recording without compromising dignity.

Confidentiality

The GMC⁵ state that confidentiality is central to trust which is an essential part of the doctor patient relationship. Without fostering trust patients may not seek medical help when they require it. They may also not fully disclose crucial information and therefore receive suboptimal assessment and care.

Whilst confidentiality is paramount, there are times when breaching confidentiality is legally mandated or ethically justified for example when there is serious risk of imminent harm to a patient, to others or a breach is required by law. Doctors have a duty of confidentiality to their patients but also have a wider duty to professional colleagues and wider society.

There needs to be a clear public distinction between health care and the police. Any public breach of confidence in the Emergency Department through police's actions must be avoided. Whilst public safety is paramount for both, priorities can differ, so a clear distinction is beneficial to both agencies. However, collaborative working and good communication to ensure safety of patients and wider public should be maintained as appropriate.

Distraction

Distractions can affect medical staff and their performance, increasing the risk of potential error. This can have a direct impact on patient safety and outcome. If police officers using a BWVC is causing a distraction, then this needs to be communicated with the officer. In certain circumstances, and resources permitting, it may be appropriate to consider assigning a separate staff member to interact with the police so that there is no distraction from patient care.

The Police Officer's Position

Clinicians should understand and be sensitive to the fact that the default position of a police officer may be to record. They may have to justify and record reasons for stopping any recording. For that reason, Emergency Departments need to display an understanding and patience whilst the officer considers the situation and potentially speaks to their appropriate senior officers. It is also our responsibility to clearly outline any reasons for objections we have for ongoing recording so that they can make an informed decision and appropriately justify stopping recording.

There may be times when they are told they need to continue to record for purposes not apparent to Emergency clinicians. However, any ongoing recording needs to be clearly justified.

These are the Policing Principles for the overt use of BWVC¹:

- BWV is used lawfully and legitimately
- BWV is processed and managed in line with data protection legislation and information management guidance
- BWV use must be proportionate and related to a meaningful operational encounter
- BWV is used to engage with communities to promote transparency and accountability

Collateral Intrusion

Recording in hospital can capture a great deal of sensitive and personal information about not just the subject but others in the area. Efforts should be made to minimise any recording of other patients. The police own the data and are responsible for this and can redact the footage. However, this breach in confidentiality is another reason why the default position should not be to record but instead thoroughly consider and justify any BWVC use.

Duty of Candour

Where an individual has been recorded in an unconscious or altered state and there has been a disagreement with police about the use of BWVC then duty of candour by ED staff may need to be considered. If it is felt there has been a breach in confidence in the Emergency Department through the police's action which has resulted in harm, then refer to the GMC guidance on professional duty of candour⁶ and seek advice from either medical indemnity insurance providers or the appropriate Caldicott guardian.

Data Law

There is no current legislation for BWVC use however the Information Commissioner oversees and enforces data protection laws.

The police, like other agencies, comply with the Data Protection Act 2018 (DPA18)² and General Data Protection Regulation (GDPR). However, law enforcement and intelligence services are afforded exemptions in some circumstances. The responsibility of any recording they have obtained lies with them.

GDPR principles of being transparent, necessary and proportionate to achieve the purpose of preventing or reporting crime need to be adhered to when BWVC are used.

Any viewing of police BWVC outside of policing purposes breaches both DPA18 and GPPR laws. Therefore, footage cannot be used by clinicians for teaching, training or defence against any complaints that are not criminal without consent from police and those recorded as well as permission from the force's data protection officer.

Information held by the police, along with other public authorities, is open to potential disclosure under the Freedom of Information Act 2000⁷.

Announcing

Police should announce that they are recording in a clear and concise manner¹. BWVC can have an option of being used in stealth mode which may be beneficial in certain circumstances (e.g. Firearms) however, this should not be used in Emergency Departments. Covert recording could amount to surveillance and potentially give rise to a breach of Article 8³. It may also be apparent when an officer is recording because of the camera's appearance for example if flashing red. This should be confirmed with the officer so that everyone who may be recorded is aware.

Potential scenarios in the Emergency Department

Patients being detained by police:

Patients may attend under arrest. The Faculty of Forensic & Legal Medicine state that clinical assessment of a detainee in police custody should be confidential⁸. This then applies in the Emergency Department, so unless there is good reason, BWVC should cease.

Police attending to arrest a patient:

In instances when individuals are verbally abusive to staff, other patients or relatives, police may attend and detain individuals. It should be expected that the police will likely record in these circumstances as crime is being committed.

Patients being clinically assessed and receiving treatment:

Police officers are sometimes involved in assessment and treatment in a pre-hospital setting. For example, they may be involved in performing chest compressions or in providing direct pressure for haemorrhage control. The officer may continue to record their involvement for full transparency. This footage has been found to be necessary in past public inquiries.

Patients being restrained by Police:

At times, police may be involved in restraining individuals to allow for safe treatment. They will continue to record until their restraint is no longer required.

Patients undergoing invasive procedures:

When invasive procedures occur, these should not be recorded unless there is active police involvement in medical care, the patient is being restrained, or a crime is being committed.

Mental health patients within the Emergency Department

The police may be involved in bringing patients experiencing a mental health crisis to Emergency Departments for assessment and treatment. When police attend mental health units to assist staff, they are told to use BWVC to ensure transparency and accountability of all involved⁹. Whilst this legislation does not cover Emergency Departments, the same principles may be applied and used to justify BWVC use.

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Police Sergeant 10366 Leanne Moorhouse, National Police Chiefs Council (NPCC) subject matter expert on Body-worn Video for UK Policing.

Dr Alex J Gorton, President, Faculty of Forensic & Legal Medicine.

Acknowledgements

The Best Practice Sub-committee, RCEM

The Faculty of Forensic & Legal Medicine (FFLM)

Royal College of Physicians (RCP)

The National Police Chief's Council (NPCC)

Endorsements

The Faculty of Forensic & Legal Medicine (FFLM)

The National Police Chief's Council (NPCC)

Review

Usually within three years or sooner if important information becomes available.

Declaration of Interests

None.

Disclaimers

The College recognises that patients, their situations, Emergency Departments and staff all vary. This guideline cannot cover all possible scenarios. There may be nuances to a specific circumstance. The ultimate responsibility for the interpretation and application of this guideline, the use of current information and a patient's overall care and wellbeing reside with the treating clinician.

Key words for search

Police, Body worn video camera, Video recording

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