

Custodial Operations Policy and Procedures

13.12 Body-worn video

Policy summary

The video/audio recording of incidents is a necessary activity for the effective care, control and management of correctional centres and inmates.

Video recordings of incidents are often used as evidence in administrative, civil or criminal proceedings. This policy lists the types of incidents that must be recorded where possible with a body-worn video (BWV) camera.

The use of BWV can be beneficial for de-escalating incidents, deterring offending behaviour, and reducing vexatious or frivolous complaints against staff.

Recordings must be retained and disposed of in accordance with this policy.

Video recordings must not be disclosed or used by anyone other than an officer or member of a law enforcement agency—and only for a relevant purpose. Relevant purposes include detection of offences, investigations, prosecutions, managerial and disciplinary actions, legal proceedings and training purposes.

Each correctional centre must have a Local Operating Procedure (LOP) detailing BWV user, supervisor and administrator procedures.

Management of Public Correctional Centres Service Specifications

Service specification	Professionalism and accountability Safety and security
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Scope

This section applies to all correctional centres and other facilities administered by or on behalf of Corrective Services NSW (CSNSW).

This policy does not apply to CCTV systems and hand-held video (HHV) cameras.

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1 Body-worn video use

1.1 Purpose and benefits

BWV is used to capture evidence or record something of relevance. The main purpose of using BWV is to obtain impartial evidence for use in various types of legal and disciplinary proceedings or complaint resolution processes.

BWV can provide the following benefits to correctional operations:

- deterring persons from committing offences
- providing compelling or irrefutable evidence
- modifying the behaviour of persons and de-escalation of incidents
- increase in the number of early guilty pleas
- decrease in frivolous or vexatious complaints against staff
- assist in resolving complaints against staff
- enhancing transparency and accountability
- reassure persons that officers will do their job professionally
- reduce report writing time by eliminating the need to provide verbatim accounts of interactions which were clearly recorded

1.2 Mandatory recording requirements

Correctional officers who are issued BWV must record the following incidents or events wherever possible:

Serious incidents

- violence and threats of violence against any person
- deaths in custody
- escapes and attempted escapes
- riots and disturbances
- use of force and situations with a high potential for use of force
- fires and substantial damage to property
- discovery of evidence connected with a serious incident
- trafficking activity and discovery of substantial contraband

Other incidents and events

- exercising stop, detain and search powers (except routine visitor screening)
- exercising arrest powers
- emergency responses including calls for urgent assistance, duress alarms and cell call alarms
- targeted searches of cells or cubicles
- questioning an inmate about an incident or speaking to them about their behaviour
- whenever present in a cell occupied by an inmate
- refusal by an inmate or other person to comply with a lawful request or direction
- any person committing or attempting to commit an offence against any Act or other statutory instrument

Refer to the relevant **COPP section 13 serious incident policy** for any specific recording requirements. For restrictions on recording of strip searches refer to **COPP section 17.1 Searching inmates**.

Note: The reference to stop, detain and search powers refers to those powers under Part 13A of the *Crimes (Administration of Sentences) Act 1999*.

1.3 Commencement and duration of recording

An officer should commence recording when they are first alerted to an incident as this will capture the response and incident scene upon arrival.

During an incident or other event, all communications, interactions or contact between staff and the inmate or other person must be recorded. The recording must continue uninterrupted until the incident is resolved.

If an officer fails to record a relevant occurrence, ceases recording early, or causes a break in continuity of recording, then they may be asked to justify this to their manager or in any disciplinary or legal proceedings which might follow.

1.4 Standby mode

When worn, BWV cameras must be turned on and set in the standby mode. An officer can record an event immediately through touch activation of the record button.

In standby mode BWV records video (not sound) on a rolling buffer of up to one minute. When the camera is activated by the operator, video and sound recording starts and automatically includes the back-captured video. This feature also ensures that any private conversation, which may have taken place before operator activation, is not recorded.

2 Safeguards

2.1 Advice to inmate or other person being recorded

Immediately after a correctional officer has activated a BWV camera, the officer should, where reasonably practicable, advise the inmate or other person that their conversation and actions are being recorded. The following statement is recommended for this purpose:

I am wearing a body-worn video camera which is recording our conversation and your actions. Do you understand that?

2.2 Circumstances where body-worn video must not be used

BWV must not to be used in the following circumstances:

- general surveillance or covert recording
- recording material unrelated to the lawful exercise of the officer's duties
- recording in staff toilets, shower facilities and locker rooms
- conversations between CSNSW staff or staff from other agencies which is unrelated to an incident or event
- in a court room while the court is in session.

2.3 Vulnerable persons visiting correctional centres

Correctional officers may have to record incidents or events involving the following vulnerable persons visiting correctional centres:

- children
- persons with impaired intellectual functioning
- persons with impaired physical functioning.

If a vulnerable person appears to have difficulty understanding an officer's advice that they are being recorded, then the officer should seek the assistance of an accompanying adult or support person where practicable.

2.4 Deletion of unintentional recordings

An officer might unintentionally record something of no evidentiary value by inadvertently pushing the BWV camera record button, or by forgetting to return a BWV camera to standby mode.

If an officer becomes aware that they have unintentionally recorded something, then they must notify their supervisor. The supervisor will submit a *Request for deletion of body-worn video recording* form to the local system administrator for review. If the local system administrator considers that a recording should be deleted, then they must refer the request to the Director, Professional Standards Branch for determination.

Note: For the BWV Trial, deletion requests are to be emailed to the Senior Project Officer, Body Worn Video Camera Project at bodyworncameraproject@justice.nsw.gov.au

3 Body-worn video evidence

3.1 Uploading, reviewing and tagging recordings

An officer must upload, review and tag their BWV footage according to the incident type listed in the BWV user application.

Recordings will be retained or disposed automatically through the BWV system settings (refer to **subsection 4.1 Access controls** of this policy for more information).

Note: Officers must not review their footage if a person has sustained life threatening or fatal injuries during a use of force incident. In such cases, BWV cameras must be secured as evidence for investigating police.

3.2 Recordings of evidentiary value

Recordings are of evidentiary value when they contain video footage or single images of an incident or event which could be of value for an investigation or legal proceedings. These recordings are to be tagged by BWV users according to the categories listed in the BWV user application.

3.3 Recordings of no evidentiary value

Recordings of no evidentiary value are not to be tagged. Such recordings might include interactions between staff and inmates, visitors or other persons where nothing of relevance occurred. However, such recordings may be of value for complaint resolution processes where a person who is recorded subsequently makes a complaint; consequently they will be automatically retained for six months then purged.

3.4 Preparing incident reports

An officer may review their own BWV footage to assist them in preparing an accurate incident report. The report must include a comment that the officer has viewed BWV footage to support the preparation of their report. Officers should distinguish between any statement which is based on their honest belief and any statement which is derived from viewing footage.

If an officer fails to record a relevant occurrence, ceases recording early, or there is a break in continuity of recording, then this must be explained in their incident report.

Officers must write their reports from their own recollection of events and independently from each other.

3.5 Review of recordings

A video recording of a **serious incident must be reviewed** by an authorised reviewing officer to determine whether:

- there is any evidence of a person committing an offence against any Act or statutory instrument
- the conduct of staff members was appropriate
- any issues need to be addressed in an after action review (AAR) or training.

A recording must also be reviewed by an authorised reviewing officer when a **complaint** is made about the conduct of staff.

Video recordings must be reviewed impartially by an authorised reviewing officer who was not involved in the incident.

A video recording of a strip search must only be reviewed by an officer of the same sex as the inmate searched.

The outcome of a review must be recorded in the relevant IRM.

4 Information and records management

4.1 Access controls

BWV systems do not allow the operator to delete or alter recorded footage. Each recording automatically generates metadata including camera identification and the time and date of recording. Metadata will be retained indefinitely.

User, supervisor and administrator access rights for BWV issued by Custodial Corrections Branch will be determined by the Assistant Commissioner, Custodial Corrections. For BWV issued by Security & Intelligence (S&I) this will be determined by the Assistant Commissioner, S&I.

A person must not access a recording, create a copy of a recording, or possess a copy of a recording unless authorised by this policy.

4.2 Disclosure of information and recordings

A BWV recording must not be copied or disclosed except as provided for by this policy.

Inmate disciplinary hearings: A BWV recording may be used in evidence for the hearing of charges pursuant to the *Crimes (Administration of Sentences) Act 1999*, pt 2 div 6.

Law enforcement purposes: With the consent of the Governor, an authorised officer may allow an officer of a law enforcement agency to review a BWV recording to determine if the recording is of evidentiary value for a coronial investigation or the detection, investigation or prosecution of an offence.

A copy of a BWV recording may be provided to a member or officer of a law enforcement agency for a relevant purpose. Law enforcement agencies include but are not limited to:

- Corrective Services NSW
- NSW Police Force
- Australian Federal Police
- Independent Commission Against Corruption
- NSW Crime Commission
- Australian Criminal Intelligence Commission

Relevant purposes are:

- a coronial investigation or the detection, investigation or prosecution of an offence
- a purpose that is directly or indirectly related to the taking of proceedings for an offence or a coronial inquest
- disciplinary or managerial action or legal proceedings against an employee of a law enforcement agency as a consequence of any alleged misconduct or unsatisfactory performance by the employee
- a purpose that is directly or indirectly related to the taking of such disciplinary or managerial action or legal proceedings
- in connection with the training of law enforcement members or officers.

NSW Ombudsman's inquiries: A copy of a BWV recording may be given to the NSW Ombudsman for any preliminary inquiry that is directly or indirectly related to alleged misconduct or unsatisfactory performance by an employee. Only Corrections Executive Services may handle such requests.

A copy of a BWV recording given to an external law enforcement agency, from a correctional centre, must be registered in the centre's **Exhibit Register** and signed for in the same manner as any other exhibits taken by police.

4.3 System audits

Note: This subsection is under development

4.4 Retention and disposal

BWV system settings for the retention and disposal of recordings must comply with *Functional Retention and Disposal Authority: DA199* (see table below). Disposal of recordings in accordance with this table is considered normal administrative practice.

Note: DA199 only requires non-evidentiary recordings to be retained for 30 days; however CSNSW policy is to retain non-evidentiary BWV recordings for six months (180 days) to allow adequate time for the review of any complaints and system auditing.

Description	Retention / disposal
<p>Evidentiary value: Recordings of significant incidents involving harm, violence or damage to property including but not limited to:</p> <ul style="list-style-type: none"> • death (including coronial investigations and reports) • escape or near escape • significant damage to property • significant injury to staff or other person. 	Retain for 25 years then send to State Archives
<p>Evidentiary value: Recordings of minor matters or breaches of procedure not involving significant damage or injury including:</p> <ul style="list-style-type: none"> • use of force • correctional centre offences • minor injury to staff or other person • deliberate damage to property • discovery of contraband • trafficking in drugs or alcohol. 	Retain for 10 years after last action, then destroy
<p>No evidentiary value: Records of security surveillance within a correctional centre or other departmental buildings including:</p> <ul style="list-style-type: none"> • video recordings of inmate transfers and movements where the use of force has not occurred, • video recordings where incidents have not occurred. 	Destroy after 180 days

BWV recordings will automatically be retained and disposed of depending on the category tagged.

4.5 Use of recordings for training purposes

A BWV recording must not be used for training purposes if it relates to a matter currently subject to:

- active inquiries or investigation for managerial or disciplinary action
- active inquiries or investigation by a law enforcement agency
- legal proceedings.

BWV recordings that are to be used for training purposes must be:

- redacted for privacy purposes
- contain appropriate warnings for content that may cause distress or offence
- contain appropriate warnings for cultural sensitivities.

5 Quick links

- [Related COPP](#)
- [Forms and annexures](#)
- [Related documents](#)

6 Definitions

Authorised officer	The officer authorised by the Governor to perform the functions set out in this part of the COPP
Authorised reviewing officer	The manager of security or other officer authorised by the Governor to review reportable incidents
BWV	Body-worn video
CCTV	Closed Circuit Television
COPP	Custodial Operations Policy and Procedures
Correctional centre	Any place of detention including a correctional centre, correctional complex, police or court cell complex or residential facility where inmates are in Corrective Service NSW custody.
CSNSW	Corrective Services NSW
EDRMS	Electronic Data and Records Management System
HHV	Hand-held video
Governor	For this policy a Governor includes (unless otherwise stipulated) a general manager of a contract managed correctional centre or a general manager of an operational unit of the Security and Intelligence Branch.
IRM	Incident Reporting Module
Law enforcement agency	Refer to section 3 of the <i>Workplace Surveillance Act 2005</i> and the list at subsection 4.2 Disclosure of information and recordings of this policy.
Metadata	System generated information about a recording including time, date, camera number, and user identification.
OIC	Officer in charge: the on-duty ranking correctional officer who is in charge of the correctional centre in the absence of the Governor, e.g. manager of security or night senior.
Reportable incident	Refer to <i>Table of reportable incidents</i>
Significant damage	Any damage to correctional centre property which resultantly renders a cell, unit or other area unserviceable, e.g. significant wilful damage to cell plumbing or other fittings which puts the cell out of use pending substantial repairs.
Significant injury	Any serious injury which requires immediate medical treatment or hospitalisation, e.g. serious head injury, serious eye injury, fractures, laceration requiring sutures, etc.
Video recording	Any visual recording obtained through an optical surveillance device such as a CCTV, HHV or BWV camera. This includes a sound recording if the camera also has that function.

7 Document information

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Approver: Kevin Corcoran

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Version	Date	Reason for amendment
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1.0		Initial publication.
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1.1	12/02/19	Subsection [1.4] Standby mode amended to reflect that the back-captured video may be up to one minute. Previously, it was 30 seconds, but at lower definitions of video in current use, the back-capture is longer.
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1.2	12/03/20	General formatting update and improvements
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