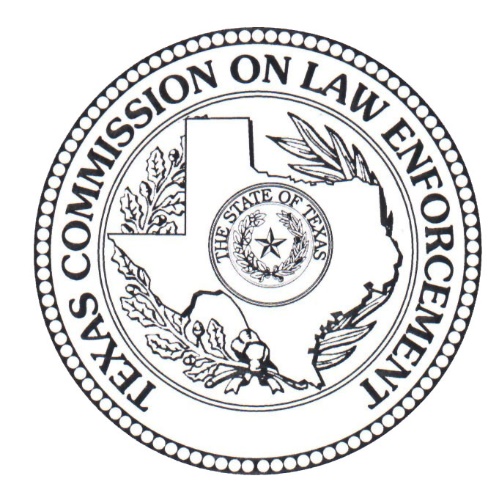
Body Worn Cameras



Course # 8158

February 2021

Body Worn Cameras

ABSTRACT

This instructor resource guide (IRG) is designed to assist the instructor in developing an appropriate lesson plan to teach the course learning objectives. Standing alone, this IRG is not a complete lesson plan. The learning objectives are the minimum required content of the Body Worn Camera course. This course is required before a law enforcement agency can implement a body worn camera program.

**Note to Trainers: it is the responsibility of the coordinator to ensure this curriculum and its materials are kept up to date. Refer to curriculum and legal resources for changes in subject matter or laws relating to this topic as well as the Texas Commission on Law Enforcement website at www.tcole.texas.gov for edits due to course review.**

**Target Population:** Peace Officers who will wear body worn cameras and any other personnel who will come into contact with video and audio data obtained from the use of body worn cameras. Such persons could include: Jailers, Telecommunicators, Clerks, and Records Retention personnel.

**Student Prerequisites:**

* None

**Instructor Prerequisites:**

* Certified TCOLE Instructor and documented knowledge/training in course subject matter OR
* Documented subject matter expert

**Length of Course:** 2 hours minimum

**Equipment:**

* Body worn camera

**Training Delivery Method(s):**

* Instructor-led, classroom-based
* Blended (online and classroom-based)
  + Only with prior TCOLE approval

**Method(s) of Instruction:**

* Lecture
* Discussion
* Scenarios
* Equipment Demonstration

**Assessment:** Assessment is required for completion of this course to ensure the student has a thorough comprehension of all learning objectives. Training providers are responsible for assessing and documenting student mastery of all objectives in this course.

In addition, the Commission highly recommends a variety of testing/assessment opportunities throughout the course which could include: oral or written testing, interaction with instructor and students, case study and scenario, and other means of testing students’ application of the skills, as the instructor or department deems appropriate.

**Reference Materials:**

* Government Code 552
* Occupations Code 1701 Subchapter N. Body Worn Camera Program (1701.651 through 1701.663)
* Acts 2015, 84th Leg., R.S., Ch. 1134 (S.B. 158), Sec. 1, eff. September 1, 2015.
* Texas Penal Code Chapter 16
* Federal Evidence Rules
* Texas Evidence Rules

Body Worn Cameras

Learning Objectives

UNIT 1 Policies and Guidelines for Use of Body Worn Cameras

* 1. **Learning Objective:**The student will be able to discuss to discuss when a camera should be activated due to privacy and departmental situations.
  2. **Learning Objective:**The student will be able to discuss when a recording should be discontinued due to privacy and departmental situations.
  3. **Learning Objective:**The student will be able to discuss what data retention is and why it is important to a body worn camera program.
  4. **Learning Objective:**The student will be able to recognize the provisions relating to data storage, backup, and security maintenance.
  5. **Learning Objective:**The student will be able to identify public access concerning open records requests.
  6. **Learning Objective:**The student will be able to discuss the provisions entitling officer access to incident recordings.
  7. **Learning Objective:**The student will be able to describe the accessibility of recordings as they relate to supervisory or internal review.
  8. **Learning Objective:**The student will be able to demonstrate the handling and documenting of equipment as well as list possible malfunctions.
  9. **Learning Objective:**The student will be able to discuss the Federal Rules of Evidence and the Texas Rules of Evidence.
  10. **Learning Objective:**The student will be able to identify when and if personally owned body camera equipment can be utilized.

UNIT 2 Recordings as Evidence

* 1. **Learning Objective:**The student will be able to discuss the benefits of body worn camera footage in evidence collection.
  2. **Learning Objective:**The student will be able to list the situations in which an offense is committed through the release of recordings made with body worn cameras.
  3. **Learning Objective:**The student will be able to describe when recording created by a body worn camera can be deleted, destroyed, or released.

UNIT 3 Obtaining Recordings

* 1. **Learning Objective:**The student will be able to describe the process that the public has to complete in order to obtain body camera recorded videos.
  2. **Learning Objective:**The student will be able to list the information that an agency can withhold.
  3. **Learning Objective:**The student will be able to discuss the term “redaction” and how it applies to body worn camera recordings.
  4. **Learning Objective:**  The student will be able to define the term “Private Space.”
  5. **Learning Objective:**The student will be able to differentiate when a request for an attorney general decision needs to be put into play due to a body worn camera recoding request.
  6. **Learning Objective:**  The student will be able to describe voluminous public information requests.

UNIT 4 Operations of Body Worn Camera

* 1. **Learning Objective:**The student will be able to discuss general functions and specifications of the body worn camera.
  2. **Learning Objective:**The student will be able to practice the functionality of the department’s body worn camera.
  3. **Learning Objective:**The student will be able to successfully demonstrate the body worn camera recording process through a scenario.

Body Worn Cameras

# UNIT 1. Policies and Guidelines for Use of Body Worn Cameras

**INSTRUCTOR NOTE:** Have students introduce themselves to include:

* Name
* Department
* Years in Law Enforcement
* Experience with Body Worn Cameras
* Knowledge, to include other courses, in the use of Body Worn Cameras

## The student will be able to discuss when a camera should be activated due to privacy and departmental situations.

A law enforcement agency that operates a body worn camera program shall adopt a policy for use of body worn cameras. Body worn cameras are activated only for a law enforcement purpose, and the policy must include guidelines for these purposes.

Definitions to know:

* Body Worn Camera (BWC) – a recording device that is capable of recording, or transmitting to be recorded remotely, video or audio, and is worn on the person of a peace officer, which includes being attached to the officer’s clothing or worn as glasses.
* Private Space – a location in which a person has a reasonable expectation of privacy, including a person’s home.

When to activate the Body Worn Camera:

* **Activate according to departmental policy.**
* Policy CANNOT require officers to keep a BWC activated for an entire shift.
* When non-enforcement contacts with the public become confrontational, assaultive, or enforcement-oriented.
* When the officer feels the use of the BWC is appropriate and beneficial in documenting an incident.
* All enforcement encounters where there is at least reasonable suspicion the person(s) has committed, is committing, or may be involved in criminal activity.
  + Detentions
  + Vehicle stops
  + Pedestrian stops
  + Consensual encounters
* Taking or attempting to take a person into custody
* Any incident involving use of force
* Service of search or arrest warrants
* Suspect statements
* Witness/Victim statements (when practical)
* Pursuits
* Response to complaints or calls for service

There may be instances where it is neither practical nor possible for the officer to activate the BWC. The safety of the officer and of the public is the foremost priority; the BWC should not be activated if it is an impediment of safety. An officer should not activate or deactivate the BWC based solely upon the request or demand of a citizen; but rather rely on training, experience and agency policy to determine the necessity of activation.

Texas Penal Code Sec. 16.02. UNLAWFUL INTERCEPTION, USE, OR DISCLOSURE OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS. (SINGLE PARTY NOTIFICATION)

16.02(c)(3) a person acting under color of law intercepts:

(A) a wire, oral, or electronic communication, if the person is a party to the communication or if one of the parties to the communication has given prior consent to the interception;

(B) a wire, oral, or electronic communication, if the person is acting under the authority of Chapter 18A, Code of Criminal Procedure. DETECTION, INTERCEPTION, AND USE OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS)

## The student will be able to discuss when a recording should be discontinued due to privacy and departmental situations.

When to deactivate BWC:

* Follow departmental policy.
* Should not deactivate until encounter has concluded except for tactical or safety reasons, or if the encounter no longer holds investigative or evidentiary value.
* If deactivated prior to conclusion of encounter, document the reason. PRIOR to deactivation on camera as well as in report.
* If no report made, document on citation or in officer daily report.
* Use reasonable judgment.
* Reactivation may be necessary depending on circumstances.

## The student will be able to discuss what data retention is and why it is important to a body worn camera program.

## **Note to Instructor: Refer to the Texas State Library and Archives Commission, Retention Schedule for Public Safety Agencies (revised fourth edition – eff March 25, 2019 (chart below is an extract)**

**Table 1 - TEXAS RETENTION SCHEDULE FOR RECORDS OF PUBLIC SAFETY AGENCIES**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **\*PS4125-04** | **VIDEO AND AUDIO RECORDINGS** | Video or audio recordings captured by police officers or as part of an automated enforcement program. |  | For security camera videos, see GR1075-25. |
| **\*PS4125-04a** | VIDEO AND AUDIO RECORDINGS | Video or audio recordings from police vehicles of persons on whom charges are not filed. | 90 days after the date of the stop. |  |
| **\*PS4125-04b** | VIDEO AND AUDIO RECORDINGS | Video or audio recordings from police vehicles of persons on whom charges are filed or related to an administrative investigation of an officer. | Follow retention period for item number PS4125-05b if charges filed or item number PS4075-01 if officer subject to internal affairs investigation. |  |
| **\*PS4125-04c** | VIDEO AND AUDIO RECORDINGS | Red-light camera videos that do not capture a violation, or for which a notice of violation is not mailed. | 30 days. | By law - Transportation Code §707.011(b). |
| **\*PS4125-04d** | VIDEO AND AUDIO RECORDINGS | Red-light camera videos that capture a violation. | Date civil penalty paid or 31 days after judgment, whichever sooner. | By law - Transportation Code §707.016. |
| **\*PS4125-04e** | VIDEO AND AUDIO RECORDINGS | Officer-worn camera videos that do not capture a violation, use of deadly force by an officer, or are otherwise unrelated to an administrative or criminal investigation of an officer. | 90 days. | By law - Occupations Code §1701.655(b)(2). |
| **\*PS4125-04f** | VIDEO AND AUDIO RECORDINGS | Officer-worn camera videos that capture use of deadly force by an officer, are otherwise related to an administrative or criminal investigation of an officer, or capture a violation by any person. | Follow retention periods for items PS4075-01 or PS4125-05, as appropriate, but not less than 90 days. | By law - Occupations Code §1701.660(a). |
| **\*PS4125-05** | **OFFENSE INVESTIGATION RECORDS** | Offense and supplemental offense reports; investigation reports and notes; witness statements; latent fingerprints; results of chemical analysis and polygraph tests; crime scene, mug shot, and other photographs; laboratory reports; arrest reports (Class C misdemeanors only); citations; affidavits; criminal processes; victim impact statements; subpoenas; and other records of a law enforcement agency relating and customary to the investigation of criminal offenses or other violations of state law or local ordinance. |  |  |
| **PS4125-05a** | **OFFENSE INVESTIGATION RECORDS** | Cases not cleared. | Until the statute of limitations has expired. | By law – Code of Criminal Procedure, Chapter 12. |
| **\*PS4125-05b** | **OFFENSE INVESTIGATION RECORDS** | Cases in which an arrest is made or a citation issued, and a law enforcement agency has certain knowledge of the pretrial or adjudicated disposition of an arrested or cited person, and considers the case to have been cleared by the conviction or acquittal of the person arrested or cited, by the dismissal of charges against the person, or by the entry on the record of a court by a prosecuting attorney of a nolle prosequi.  Copies of notices or other processes that provide certain knowledge of the pretrial or adjudicated disposition to the law enforcement agency should be kept with the offense investigation report for the full retention period.  (1) Class C misdemeanors and unclassified violations of state law or local ordinance punishable by fine only (including arrest reports and citations).  (2) Class A and B misdemeanors and state jail felonies.  (3) Second- and third-degree felonies.  (4) First-degree and capital felonies. | 6 months.  2 years.  10 years.  50 years. | **Retention Note:** a) Retention periods date from date of arrest or citation, and are based on the highest classification of offense for which a person is arrested and charged or, if applicable, the highest classification of offense for which a person is tried, whichever the lesser classification.  b) Copies of documents in offense investigation records, the originals of which are maintained by, filed with, or returned to a court or another state or local law enforcement agency, need be retained only as long as administratively valuable.  c) For any classification of offense, records can be destroyed after death of individual if death occurs before retention period expires. |

## The student will be able to recognize the provisions relating to data storage, backup, and security maintenance.

Retention/Storage/Security/Backup ***Sample*** policy text:

* + - 1. Case Number/Evidentiary Videos
    1. Mobile video/body camera/audio recording (MV/BC/AR) digital recordings associated with a criminal offense, of obvious evidentiary value, or associated with a case number shall be stored in the A/V system and retained in compliance with the appropriate records retention schedule.
    2. MV/BC/AR digital recordings identified as evidentiary, containing information that may be of evidentiary value or used in civil adversary proceedings shall be retained in the A/V system. This system is a proprietary database where stored data is encrypted and accessed only through a specific username and password. Videos cannot be altered or deleted by employees. Stored recordings are not deleted or subject to the automatic 90- or 365-day deletion.
    3. The Evidence Technician shall maintain a digital recording inventory log. Digital recordings shall be maintained in a manner that allows for efficient identification and retrieval.
       1. Non-Case Number Videos
    4. Body camera video not associated with a case number shall be stored on the network drive designated for video storage in the Officer’s radio number file. Access to the system network requires password identification. Videos cannot be altered or deleted by employees.
    5. Digital recordings not associated with a case number or marked as evidence, scheduled for court proceedings or other adversary or agency uses shall be maintained for a minimum period of 365 days, from the date of the recording. After 365 days, recordings not appropriately identified as having evidentiary value shall be removed from the system.
       1. Backup/Data Security
    6. Backups to disk of the OS/application drive are done every six hours. After each backup, the “recovery points” are replicated to a DR system located at \_\_\_\_\_\_\_\_.

All new videos from the data drive are copied to the backup share daily. The videos are replicated to a backup A/V video server located at \_\_\_\_\_\_\_\_.

* + 1. Backup Servers located at [AGENCY NAME] are in an access restricted area only accessible by ID card/code access.
    2. Backup A/V Server located at \_\_\_\_\_\_\_\_ is in an access restricted area only accessible by ID card/code access.
    3. Any drives related to backups that fail are shredded.
    4. Tapes and disks when removed from usability status, are physically destroyed (shredded) using \_\_\_\_\_\_\_\_ record destruction services. A member of the ITIO Business Continuance Team is present and verifies the destruction.

## The student will be able to identify public access concerning open records requests.

* Sec. 1701.659. Offense.
  + 1. A peace officer or other employee of a law enforcement agency commits an offense if the officer or employee releases a recording created with a body worn camera under this subchapter without permission of the applicable law enforcement agency.
    2. An offense under this subchapter is a Class A misdemeanor.
* Recordings documenting incidents involving the use of deadly force by a peace officer or that is otherwise related to an administrative or criminal investigation of an officer may not be deleted, destroyed, or released to the public until all related administrative investigations have concluded.
* A law enforcement agency may release to the public a recording described above if the law enforcement agency determines that the release furthers a law enforcement purpose.
* A law enforcement agency may NOT release any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in an arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person’s authorized representative.
* A recording is confidential if the recording was not required to be made public by law or policy and does not relate to a law enforcement purpose.

## The student will be able to discuss the provisions entitling officer access to incident recordings.

* Outlined in Occupation Code 1701 Subchapter-N

Officer Access to Incident Recording sample policy text:

* Officers are authorized to review only video personally submitted except when the Officer is required to make a statement about the incident. Prior to making the statement, the Officer may access any recording that involves the Officer.
* Officers who wish to review additional video related to an incident they were involved in will make the request through their supervisor.

## The student will be able to describe the accessibility of recordings as they relate to supervisory or internal review.

* Outlined in Occupation Code 1701 Subchapter N. Body Worn Camera Program

Supervisory or Internal Review Sample policy text:

Investigative personnel assigned to the Criminal Investigation Division (CID), Supervisors, and Administrators have rights to review all evidentiary recordings. View only access rights to stored video files shall be provided to personnel upon assignment to CID or a supervisor/administrative positions.

Supervisory responsibilities:

Affected supervisors shall ensure officers utilizing MV/BC/AR equipment adhere to established procedures, guidelines and policies for the use and operation of video/audio systems, handling of, and the completion of data transfer and documentation.

Monthly Video Reviews — Patrol Supervisors shall conduct a documented review each month of the camera captured data from each patrol officer. The review will consist of the examination of one mobile video and one body camera video.

Nothing contained in this section shall be construed as prohibiting a supervisor from addressing apparent policy violations; deficiencies with regard to arrest, investigation, or interpersonal communications; or officer safety issues that are discovered during review of an MV/BC/AR recording.

## The student will be able to demonstrate the handling and documenting of equipment as well as list possible malfunctions.

Specific to the respective department’s approved body worn camera

## The student will be able to discuss the Federal Rules of Evidence and the Texas Rules of Evidence.

**TOC 1701.655(d).** A policy adopted under this section must be consistent with the Federal Rules of Evidence and Texas Rules of Evidence.

1. FEDERAL RULES OF EVIDENCE

Article X. Contents of Writings, Recordings, and Photographs:

* Rule 1001. Definitions That Apply to This Article

(a) A “writing” consists of letters, words, numbers, or their equivalent set down in any form.

(b) A “recording” consists of letters, words, numbers, or their equivalent recorded in any manner.

(c) A “photograph” means a photographic image or its equivalent stored in any form.

(d) An “original” of a writing or recording means the writing or recording itself or any counterpart intended to have the same effect by the person who executed or issued it. For electronically stored information, “original” means any printout — or other output readable by sight — if it accurately reflects the information. An “original” of a photograph includes the negative or a print from it.

(e) A “duplicate” means a counterpart produced by a mechanical, photographic, chemical, electronic, or other equivalent process or technique that accurately reproduces the original.

* Rule 1002. Requirement of the Original

An original writing, recording, or photograph is required in order to prove its content unless these rules or a federal statute provides otherwise.

* Rule 1003. Admissibility of Duplicates

A duplicate is admissible to the same extent as the original unless a genuine question is raised about the original’s authenticity or the circumstances make it unfair to admit the duplicate.

* Rule 1004. Admissibility of Other Evidence of Content

An original is not required and other evidence of the content of a writing, recording, or photograph is admissible if:

(a) all the originals are lost or destroyed, and not by the proponent acting in bad faith;

(b) an original cannot be obtained by any available judicial process;

(c) the party against whom the original would be offered had control of the original; was at that time put on notice, by pleadings or otherwise, that the original would be a subject of proof at the trial or hearing; and fails to produce it at the trial or hearing; or

(d) the writing, recording, or photograph is not closely related to a controlling issue.

* Rule 1005. Copies of Public Records to Prove Content
* The proponent may use a copy to prove the content of an official record — or of a document that was recorded or filed in a public office as authorized by law — if these conditions are met: the record or document is otherwise admissible; and the copy is certified as correct in accordance with [Rule 902](https://www.rulesofevidence.org/article-ix/rule-902/)(4) or is testified to be correct by a witness who has compared it with the original. If no such copy can be obtained by reasonable diligence, then the proponent may use other evidence to prove the content.
* Rule 1006. Summaries to Prove Content

The proponent may use a summary, chart, or calculation to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court. The proponent must make the originals or duplicates available for examination or copying, or both, by other parties at a reasonable time and place. And the court may order the proponent to produce them in court.

* Rule 1007. Testimony or Statement of a Party to Prove Content

The proponent may prove the content of a writing, recording, or photograph by the testimony, deposition, or written statement of the party against whom the evidence is offered. The proponent need not account for the original.

* Rule 1008. Functions of the Court and Jury

Ordinarily, the court determines whether the proponent has fulfilled the factual conditions for admitting other evidence of the content of a writing, recording, or photograph under [Rule 1004](https://www.rulesofevidence.org/article-x/rule-1004/) or [1005](https://www.rulesofevidence.org/article-x/rule-1005/). But in a jury trial, the jury determines — in accordance with [Rule 104](https://www.rulesofevidence.org/article-i/rule-104/)(b) — any issue about whether:

(a) an asserted writing, recording, or photograph ever existed;

(b) another one produced at the trial or hearing is the original; or

(c) other evidence of content accurately reflects the content.

1. TEXAS RULES OF EVIDENCE

Article X. Contents of Writings, Recordings, and Photographs:

* Rule 1001. Definitions That Apply to This Article

For purposes of this article the following definitions are applicable:

**(a) Writings and Recordings.**  “Writings” and “recordings” consist of letters, words, or numbers or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

**(b) Photographs.** “Photographs” include still photographs, X-ray films, video tapes, and motion pictures.

**(c) Original.** An “original” of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An “original” of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an “original.”

**(d) Duplicate.** A “duplicate” is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original.

* Rule 1002. Requirement of the Original

To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required except as otherwise provided in these rules or by law.

* Rule 1003. Admissibility of Duplicates

A duplicate is admissible to the same extent as an original unless (1) a question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original.

* Rule 1004. Admissibility of Other Evidence of Content

The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if:

**(a) Originals Lost or Destroyed.** All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith;

**(b) Original Not Obtainable.** No original can be obtained by any available judicial process or procedure;

**(c) Original Outside the State.** No original is located in Texas;

**(d) Original in Possession of Opponent.** At a time when an original was under the control of the party against whom offered, that party was put on notice, by the pleadings or otherwise, that the content would be a subject of proof at the hearing, and that party does not produce the original at the hearing; or

**(e) Collateral Matters.** The writing, recording or photograph is not closely related to a controlling issue.

* Rule 1005. Copies of Public Records to Prove Content

The contents of an official record or of a document authorized to be recorded or filed and actually recorded or filed, including data compilations in any form, if otherwise admissible, may be proved by copy, certified as correct in accordance with Rule 902 or testified to be correct by a witness who has compared it with the original. If a copy which complies with the foregoing cannot be obtained by the exercise of reasonable diligence, then other evidence of the contents may be given.

* Rule 1006. Summaries to Prove Content

The contents of voluminous writings, recordings, or photographs, otherwise admissible, which cannot conveniently be examined in court may be presented in the form of a chart, summary, or calculation. The originals, or duplicates, shall be made available for examination or copying, or both, by other parties at a reasonable time and place. The court may order that they be produced in court.

* Rule 1007. Testimony or Statement of a Party to Prove Content

Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by that party’s written admission, without accounting for the nonproduction of the original.

* Rule 1008. Functions of the Court and Jury

When the admissibility of other evidence of contents of writings, recordings, or photographs under these rules depends upon the fulfillment of a condition of fact, the question whether the condition has been fulfilled is ordinarily for the court to determine in accordance with the provisions of Rule 104. However, when an issue is raised (a) whether the asserted writing ever existed, or (b) whether another writing, recording, or photograph produced at the trial is the original, or (c) whether other evidence of contents correctly reflects the contents, the issue is for the trier of fact to determine as in the case of other issues of fact.

* Rule 1009. Translating a Foreign Language Document

**(a) Translations.** A translation of foreign language documents shall be admissible upon the affidavit of a qualified translator setting forth the qualifications of the translator and certifying that the translation is fair and accurate. Such affidavit, along with the translation and the underlying foreign language documents, shall be served upon all parties at least 45 days prior to the date of trial.

**(b) Objections.** Any party may object to the accuracy of another party’s translation by pointing out the specific inaccuracies of the translation and by stating with specificity what the objecting party contends is a fair and accurate translation. Such objection shall be served upon all parties at least 15 days prior to the date of trial.

**(c) Effect of Failure to Object or Offer Conflicting Translation.** If no conflicting translation or objection is timely served, the court shall admit a translation submitted under paragraph (a) without need of proof, provided however that the underlying foreign language documents are otherwise admissible under the Texas Rules of Evidence. Failure to serve a conflicting translation under paragraph (a) or failure to timely and properly object to the accuracy of a translation under paragraph (b) shall preclude a party from attacking or offering evidence contradicting the accuracy of such translation at trial.

**(d) Effect of Objections or Conflicting Translations.** In the event of conflicting translations under paragraph (a) or if objections to another party’s translation are served under paragraph (b), the court shall determine whether there is a genuine issue as to the accuracy of a material part of the translation to be resolved by the trier of fact.

**(e) Expert Testimony of Translator.** Except as provided in paragraph (c), this Rule does not preclude the admission of a translation of foreign language documents at trial either by live testimony or by deposition testimony of a qualified expert translator.

**(f) Varying of Time Limits.** The court, upon motion of any party and for good cause shown, may enlarge or shorten the time limits set forth in this Rule.

**(g) Court Appointment.** The court, if necessary, may appoint a qualified translator, the reasonable value of whose services shall be taxed as court costs.

## The student will be able to identify when and if personally owned body camera equipment can be utilized. Occupations Code 1701.658

* If a law enforcement agency receives a grant for a body worn camera, a peace officer who is employed by the agency and who is on duty may ONLY use a body worn camera that is issued and maintained by that agency.
* If a law enforcement agency is not receiving grant funding for a body worn camera, a peace officer employed by the agency may use a personally owned body worn camera IF permitted by the agency.
* If the agency permits use of personally owned body worn camera, the agency must make provisions for the security and compatibility of the recordings made by those cameras.

# UNIT 2. Recordings as Evidence

## The student will be able to discuss the benefits of body worn camera footage in evidence collection.

There are a variety of reasons why body worn camera footage is useful in evidence collection:

* Presence of video evidence enhances the ability to obtain convictions and increase the number of guilty pleas.
* Video evidence may capture a suspect’s behavior/tone of voice that cannot be documented by words alone. This is important when considering probable cause since it relies specifically on a suspect’s actions, demeanor, and words. Allows juries to ‘see’ what the officer saw.
* Video evidence provides the opportunity for consistent and accurate report writing as it can be used to assist in recall before writing a report and going to trial.
* Video provides the most accurate depiction and documentation of evidence possible. Officers can also verbally describe what they see, smell, and hear while responding to a scene to better document evidence and provide follow-up to investigators with an understanding of events as they are being investigated.
* Video evidence captures verbal consent. A video recording properly asking for and receiving verbal consent is useful evidence at trial.

## The student will be able to list the situations in which an offense is committed through the release of recordings made with body worn cameras.

Peace officers or other employees of a law enforcement agency commit an offense if the officer or employee releases a recording created with a body worn camera without the permission of the applicable law enforcement agency. The offense is a Class A misdemeanor. TOC 1701.659

## The student will be able to describe when recording created by a body worn camera can be deleted, destroyed, or released.

* Departments may release to the public a recording from a body worn camera if the law enforcement agency determines that the release furthers a law enforcement purpose.
* Audio/video evidence may not be converted for personal use. Proper approval must be obtained for accessing, copying, editing, or releasing recordings or depictions of body worn camera recordings.
* Body worn camera footage will not be edited, altered, erased, duplicated or otherwise distributed without proper authorization from the department.
* A recording created with a body worn camera that documents an incident that involves the use of deadly force by a peace officer or that is otherwise related to an administrative or criminal investigation of an officer may not be deleted, destroyed, or released to the public until all criminal matters have been finally adjudicated and all related administrative investigations have concluded.

# UNIT 3. Obtaining Recordings

## The student will be able to describe the process that the public has to complete in order to obtain body camera recorded videos.

* A member of the public is required to provide specific information when submitting a written request in obtaining information recorded by a body worn camera:
  + Date and approximate time of the recording
  + Specific location where the recording occurred
  + Name of one or more of the persons known to be a subject of the recording.

**Note:** Failure to provide the information above does not preclude the requestor from making a future request for the same recorded information.

* **Agencies should have clear and consistent protocols for releasing recorded data externally** to **the public and the news media.** Each agency’s policy must comply with the state's public disclosure laws. A broad disclosure policy to promote agency transparency and accountability is generally recommended. However, agencies must always take into account privacy considerations when determining whether to release footage. Policies should include specific measures for preventing unauthorized video access or release.

## The student will be able to list the information that an agency can withhold.

* When determining whether a recording should be prohibited, agencies should consider privacy concerns, the need for transparency and accountability, the safety of the officer and the citizen, and the evidentiary value of recording.
* Prohibited recordings should include the following:
  + Conversations with confidential informants and undercover officers (to protect confidentiality and officer safety)
  + Places where a reasonable expectation of privacy exists (e.g., bathrooms or locker rooms)
  + Strip searches
  + Conversations with other agency personnel that involve case tactics or strategy
  + Policies should clearly state any other types of recordings that are prohibited by the agency
  + Agencies should prohibit recording other agency personnel during routine, non-enforcement-related activities unless recording is required by a court order or is authorized as part of an administrative or criminal investigation

## The student will be able to discuss the term “redaction” and how it applies to body worn camera recordings.

* Redaction – a form of editing video or camera captured footage to eliminate or alter the collected/documented work.
* While agencies that have implemented body-worn cameras report that responding to public disclosure requests can be administratively complicated, departments must implement systems that ensure responses to these requests are timely, efficient, and fully transparent. This process should include reviewing footage to locate the requested video, determining which portions are subject to public release under state disclosure laws, and **redacting** any portions that state law prohibits from disclosure (e.g., images of juveniles’ faces).
* The most important element of an agency’s policy is to communicate it clearly and consistently within the community.

## The student will be able to define the term “Private Space.”

## TOC 1701.661

* Private Space is defined as:
  + a location in which a person has a reasonable expectation of privacy, including a person’s home; or
  + a place where one may reasonably expect to be safe from uninvited intrusion or surveillance but does not include a place to which the public has lawful access.
* A law enforcement agency may not release any portion of a recording made in a private space.
* A law enforcement agency may not release any portion of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the persons authorized representative.

## The student will be able to differentiate when a request for an attorney general decision needs to be put into play due to a body worn camera recoding request.

If an exception to releasing a video is considered:

* Section 552.301 (b) Government Code
  + Turn it over to your City Attorney
  + Attorney General opinion must be requested within 20 business days of the receipt of the written request
  + Response to the requestor is considered timely if requested no later than the 20th business day of written request.
* Section 552.301 (e) Government Code
  + Turn it over to your City Attorney
  + Attorney General opinion must be made within 25 business days of the receipt of the written request
  + Response to the requestor is considered timely if made no later than the 25th business day of written request.

Open Records Request—Release of recordings shall be done in accordance with Occupations Code 1701, Subchapter N and Government Code Chapter 552:

* Public requests for video require an open records request in writing as per the Texas Public Information Act.
* Open Records requests shall be forwarded to the Records personnel who will process the request according to University Policy and the Texas Public Information Act.
* Law Enforcement requests for videos shall be made to the Assistant Chief of Support Services or his designee

## The student will be able to describe voluminous public information requests.

## TOC 1701.663

* Voluminous request is defined as the request of large volumes of video captured technology, including:
  + a request for body camera recordings from more than five separate incidents;
  + more than five separate requests for body worn camera recordings from the same person in a 24-hour period, regardless of the number of incidents included in each request; or
  + a request or multiple requests from the same person in a 24-hour period for body worn camera recordings that, taken together, constitute more than five total hours of video footage.
* An officer who receives a voluminous request is considered to have promptly produced the information for purposes of release, if the officer takes the actions required before the 21st business day after the date of receipt of the written request.

# UNIT 4. Operations of Body Worn Camera

## The student will be able to discuss general functions and specifications of the body worn camera.

A variety of makes and models of equipment can be utilized in the body worn camera program. Directives and explanations of equipment functions should be utilized while participating in scenario interaction.

Depending on the manufacturer, and model of body camera your department selects to implement, unit functions usually vary from device to device. There are, however, a few functions and specifications that are static to most devices, though may vary in range, class, or quality. These specifications should be considered when choosing a camera for official use.

* Model Number/Serial and Name of the body worn camera.
* Mounting option of the body worn camera (e.g., Head, Chest, Glasses, Helmet, Various). Optional mounting locations may require add-on accessories.
* Maximum Video Resolution of the body worn camera (e.g., 640x480, 1080p).
* Recording Speed of the body worn camera (e.g., 30 fps). Recording speeds often depend on the video resolution selected.
* Recording Format of the video from the body worn camera (e.g., MPEG-4, MOV).
* Capability to capture Still Photos.
* Embedding of a Time/Date Stamp in the recorded video.
* The Field of View of the body worn camera (e.g., 75°, 120°).
* The Lux Rating of the body worn camera. The minimum amount of light that produces an acceptable image. This rating is for normal camera operation and does not take into account any Night Mode.
* Night Mode capable and in what format (e.g., Low Light, IR Lens, etc.).
* Playback Screen availability for on-person video viewing.
* Audio Format of the body worn camera (e.g., MP2, AAC).
* CJIS and Video Safeguards that limit access or editing by users.
* Pre-Event Record feature and the buffered time and if the recording includes audio.
* Event Marking capable. Event marking capabilities provided by offline video management software is considered a “No” response.
* The Battery Type used by the body worn camera and whether it is internal or removable.
* The Recording Life of the body worn camera battery.
* The Standby duration of the body worn camera battery.
* The Charge Time of the body worn camera battery.
* The onboard memory Storage capacity of the body worn camera.
* The Recording Time of the body worn camera under default resolution settings. Recording time is dependent on the video resolution settings and body worn camera memory.
* GPS or Geo-Location capability, and whether that information is embedded in recorded video.
* The physical Dimensions (in inches) of the body worn camera (camera, control unit and/or battery).
* The Weight of the body worn camera and all accessories worn by a user.
* Environment Testing, and stan­dards held or met through testing.
* Duration of standard Warranty that comes with the body worn camera unit. A range of warranty durations indicates an optional extended warranty is available.
* Proprietary Video Management Software used for video management of the body worn camera recordings, and if it is required to use the body worn camera.
* Police Radio Interface option for the body worn camera.
* Vehicle Mountable for dashboard applications. Many body worn cameras that can be mounted in a vehicle require optional accessories; these are not included in the price.
* The Manufacturer Suggested Retail Price (MSRP) for the body worn camera. Does not include optional features, accessories or services plans.
* Wireless capabilities to communicate with a computer or external DVR unit.
* Storage option; Hosted/Cloud storage or Local/Server storage capability.

## The student will be able to practice the functionality of the department’s body worn camera.

Specific to the respective department’s approved body worn camera; although for the purposes of this course some boilerplate content will need to be added; hence the above specification breakdown which vary by device.

## The student will be able to successfully demonstrate the body worn camera recording process through a scenario.

Specific to the respective department’s approved body worn camera; although for the purposes of this course, a conventional scenario model is recommended.

# 2015 Body Worn Camera Curriculum Development Committee:

Dr. Rita Watkins- Bill Blackwood Institute LEMIT, Sam Houston State University

Chief Sean Mannix- Cedar Park Police Department/Texas Police Chief’s Association

Melinda Schlager, PH.D- Caruth Police institute

Sheriff Henry Trochesset- Galveston County Sheriff’s Office

Sheriff Donald Sowell- Grimes County Sheriff’s Office

Officer Johnnie Moreno- City of San Antonio Police Department

**RESOURCES**

Texas A&M University Police Department Policy Manual – Chapter 48: Mobile Video/Body Camera/Audio Recording