



# Cody Police Department Field Manual

Procedure# 990

Approved: Chuck Baker, Chief of Police

Effective Date: June 4, 2018 Updated: September 19, 2018	Subject: <b>Body Worn Camera and In-Car Audio/Video Recording Program.</b>	Page: 1 of 10
<b>Purpose:</b> <b>990.1</b>	It is the purpose of this policy to provide guidelines for the use and management of Body Worn Cameras (BWC) and In-Car Video/Audio recording devices by members of the Cody Police Department while in the performance of their duties.	
<b>Definitions:</b> <b>990.1 (A)</b>	<u>BWC and In-Car Camera Administrator:</u> The Patrol Lieutenant or their designee will act as the administrator for the Portable Body Worn Camera (BWC) and In-Car Audio/Video Recording Program. <u>Property and Evidence Manager:</u> The Detective Sergeant will act as the Property and Evidence Manager and is responsible for the receipt, storage, safekeeping, release and disposal of all property or evidence that comes under the control of the Police Department. <u>Mobile Video Recording (MVR):</u> For the purpose of this policy, mobile video recording shall refer to any audio/video recording made through the use of a Body Worn Camera recording system or an In-Car video/audio recording system.	
<b>Objectives:</b> <b>990.1 (B)</b>	The Cody Police Departments use of portable BWC and In-Car Audio/Video Recording systems is intended to enhance the Mission, Vision, and Values of the Department, and to promote greater transparency and accountability by accurately capturing contacts between members of the department and the public.	
<b>Training:</b> <b>990.1 (C)</b>	All officers will receive department approved training prior to official use of BWC and In-Car video/audio recording devices.  Supplemental trainings will be conducted when deficiencies are identified in the use of these devices, or when there are changes in policy or protocols, hardware or software that affect the use or management of these devices.	
<b>BWC/In-Car Camera Administrator Responsibilities:</b> <b>990.2</b>	The Body Worn Camera (BWC) and In-Car Audio/Video Recording Program will be administered by the Patrol Lieutenant or their designee. They are responsible for; (a) Ensuring all officers receive mandatory training on the Body Worn Camera (BWC) and In-Car Audio/Video Recording systems, equipment and policy guidelines and procedures prior to official use while in the performance of their duties. (b) Coordinating technical support with the City IT Department for malfunctioning audio/video recording equipment or systems and	

	<p>facilitating all warranty repairs or other technical issues as it relates to the BWC/In-Car Camera program.</p> <p>(c) Randomly review Mobile Video Recordings to verify policy compliance.</p> <p>(d) Conduct program and policy reviews to insure continuous effectiveness and adherence to local, state, and federal laws by the department.</p>
<p><b>BWC/In-Car Camera Officer Responsibilities:</b> <b>990.2 (A)</b></p>	<p>Prior to going into service, each uniformed member issued a BWC or operating a department vehicle equipped with an In-Car Camera will be responsible for making sure that they are equipped with a BWC and the In-Car recording devices are in good working order. If the recording devices are not in working order or malfunctions at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable.</p> <p>Uniformed members will wear the BWC in a conspicuous manner on an approved mount above the mid-line of the torso facing forward and free of obstruction to maximize the recording area.</p> <p>The following members are required to be equipped with a BWC prior to going into service:</p> <ul style="list-style-type: none"> <li>(a) Officers and Sergeants assigned to Patrol</li> <li>(b) Officers and Sergeants assigned as a School Resource Officer</li> <li>(c) Community Service Officers</li> <li>(d) Any Uniformed members engaging in off duty assignments, special events or other uniformed assignments while fulfilling duty obligation in any capacity for the department.</li> </ul> <p>Any member assigned to a non-uniformed position may carry an issued BWC at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever possible.</p> <p>All marked patrol vehicles will be equipped with In-Car Cameras.</p>
<p><b>Advisement When Recording</b> <b>990.2 (B)</b></p>	<p>As a general rule, officers are encouraged to advise private persons they are being recorded if the advisement may gain compliance, assist in the investigation, and will not interfere with the investigation or officer safety.</p> <p>Officers are not required to obtain consent to record from members of the public when the officer is lawfully in the area where the recording takes place.</p> <p>Residents have a reasonable expectation of privacy in their homes. However, when officers are lawfully present in a home (warrant, consent, or exigent circumstances) in the course of official duties, there is no reasonable expectation of privacy, and recording is lawful. If asked, officers shall advise citizens they are being recorded.</p>

	<p>If a resident objects to the recording by the BWC inside a private residence <b><u>entered on consent</u></b>, the officer may stop the recording. Before terminating a recording for reasons of privacy or other concerns, the officer shall document audibly on camera and later in writing (if a written report is required) the reasons for not recording, (see BWC DE-Activation).</p> <p>Officers are not required to initiate or cease lawful recording of an event, situation or circumstances solely at the demand of citizen.</p>
<p><b>BWC Activation: 990.3</b></p>	<p>This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Beyond the prohibited areas described under Section 990.4 members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident based on their training, experience and judgement.</p> <p>The portable recorder should be activated in any of the following situations:</p> <ul style="list-style-type: none"> <li>(a) All enforcement and investigative contacts including calls for service, stops and field interview (FI) situations</li> <li>(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops</li> <li>(c) Self-initiated activity in which a member would normally notify Dispatch and a member is likely to come into contact with the public for a law enforcement purpose.</li> <li>(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording</li> <li>(e) Anytime a person other than a ride along is being transported. Members should keep in mind that any interferences such as radio traffic, music or other noises may prohibit the BWC of In-Car microphones from collecting spontaneous statements made by the person being transported.</li> <li>(f) Additional arriving enforcement members that are equipped with BWC should activate their cameras and begin recording the situation upon their arrival until the member leaves the scene.</li> <li>(g) To assist in documenting warrantless or consensual searches of individuals, vehicles, buildings and other places. <ul style="list-style-type: none"> <li>1. The BWC will be utilized to record the request and consent. This recording is intended to enhance a documented consent. It is not intended to replace the use of the Consent to Search Form.</li> <li>2. The BWC can be used to record the search itself.</li> </ul> </li> <li>(h) To assist in documenting an individual’s Miranda Advisement, the BWC will be utilized to record the advisement and the subject’s responses when practical. This recording is intended to enhance a documented consent. It is not intended to replace the use of an Advisement/Waiver form.</li> </ul>

<p><b>Surreptitious use of the BWC or In-Car Camera Audio Recorder:</b> <b>990.3(A)</b></p>	<p>Wyoming law permits an individual to surreptitiously record and or disclose any conversation in which one party to the conversation has given consent (WY Statue 7-3-702).</p> <p>Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation.</p> <p>Members shall not surreptitiously record another department member without a court order or when lawfully authorized by the Chief of Police or the authorized designee.</p>
<p><b>BWC De-Activation:</b> <b>990.3(B)</b></p>	<p>Once activated, the BWC recorder should remain on continuously until the member's direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recordings may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.</p> <p>During consensual encounters in locations where members of the public have a reasonable expectation of privacy, such as a residence, an enforcement member shall offer the member of the public the option to have the BWC discontinue its recording. If the member of the public requests the recording be discontinued the enforcement member should immediately discontinue use of the BWC,</p> <p>Recordings made pursuant to an arrest or search of the residence or person(s) is not considered a consensual encounter for the purposes of this policy. The BWC should remain activated until the event is completed in order to ensure the integrity of the recording.</p> <p>When interacting with an apparent crime victim of a serious person's crime, (sexual assault, assault) the member should, as soon as feasible, ask the apparent crime victim, if they want the member to discontinue use of the BWC. If the apparent crime victim responds affirmatively, the member should immediately discontinue use of the BWC.</p> <p>When interacting with a person seeking to anonymously report a crime or assist in ongoing law enforcement investigation, a member should, as soon as feasible, ask the person seeking to remain anonymous, if they would like to remain anonymous and would like the member to discontinue use of the BWC. If the person seeking to remain anonymous responds affirmatively, the member should immediately discontinue use of the BWC.</p> <p>All member offers to discontinue the use of the BWC, and the responses thereto, should be recorded by the BWC prior to discontinuing the use of the BWC.</p>

	<p>Deliberative process conversations involving law enforcement, which are not participated in by citizens, which include but are not limited to discussions on charging decisions, comparing witness accounts, and investigative process should be muted by holding down the button on the right side of the camera. Once released the audio will begin recording automatically.</p> <p>BWC should be removed and/or placed into a docking station inside the police department unless the member is in contact with a prisoner, witness, reporting party, victim, or suspect of a crime. While in the field, all members shall turn the BWC on in the buffering mode.</p>
<p><b>Prohibited Use of Mobile Video Recordings and Equipment</b> <b>990.4</b></p>	<p>Body Worn Camera and In-Car Audio/Video Recording Program equipment and Mobile Video Recordings can only be used for official law enforcement purposes.</p> <p>Officers shall not remove, dismantle or tamper with any hardware or software components unless for the purpose of maintenance, repair, upgrade or replacement at the specific direction of the Program Administrator or Chief of Police.</p> <p>Other than the Program Administrator, employees shall not copy, edit, alter, erase or otherwise modify in any manner recordings, data or files, except as authorized by law or department policy.</p> <p>Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.</p> <p>Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders.</p> <p>Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes.</p> <p>All such recordings made by members of the Department shall remain the property of the Department and retained at the Department pursuant to policy.</p> <p>Members are prohibited from using personally owned recording devices while on duty.</p> <p>Audio or video recording devices <u>shall not be used for</u>:</p> <ul style="list-style-type: none"> <li>(a) The purpose of embarrassment, intimidation or ridicule.</li> <li>(B) To gather intelligence information based on First Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between an officer and a member of the public.</li> <li>(c) In Department locker rooms, restrooms or any other intimate places where there would be a reasonable expectation of privacy.</li> </ul>

	<p>(d) To record confidential informants or undercover officers unless the recording is conducted specifically for the purpose of documenting an operation, drug purchase/sale or other undercover operation in furtherance of a criminal investigation.</p> <p>(e) To record conversations or activities of fellow employees without their knowledge during routine and non-enforcement activities.</p> <p>(f) While on the grounds of any public, private or parochial school, inside a medical treatment facility, including ambulances, or inside a courtroom during court proceedings except for the following expectations;</p> <ol style="list-style-type: none"> <li>1. During times when all parties being visibly or audibly recorded are in a private room with consent for such recording;</li> <li>2. While affecting an arrest or controlling a combative or resistant person;</li> <li>3. While engaged in an investigative or other enforcement action.</li> </ol>
<p><b>Unintentional Recordings: 990.4(A)</b></p>	<p>In the event of an unintentional activation of the BWC system during a non-enforcement or non-investigative activity, including but not limited to, restroom, meal break, or other areas where a reasonable expectation of privacy exists, members should categorize the event as “<b>Non-Event</b>” and may request the recording to be deleted. A memorandum detailing the circumstances of the unintentional recording will be forwarded via the chain of command to the Chief of Police. If approved, the actual deletion requires two-party authorization. One of those parties will be the Chief of Police or designee and the other party will be BWC and In-Car Camera Administrator or Property and Evidence Section Sergeant.</p>
<p><b>Reporting and Review of Recordings</b></p> <p><b>Officer Responsibilities; 990.5</b></p>	<p>When preparing written reports, members may review their own recordings as a resource. Members may only review recordings from their assigned BWC or In-Car Camera. Members shall not retain personal copies of recordings.</p> <p>The existence of any Mobile Video Recording (MVR) of an event shall be included in the officer’s report. MVR is not a substitute for a thorough investigation and a detailed written report. Written reports shall not list “refer to MVR” in lieu of writing a detailed report.</p> <p>An officer may share an MVR with other officers as it relates to their involvement in an incident or to continue an investigation.</p> <p>If a member is involved in (or a witness to) a critical incident that any policy requires an administrative review, the member is expressly prohibited from reviewing any recordings of the incident until they have completed an initial report or received the approval of a supervisor. This includes, but is not limited to:</p> <ol style="list-style-type: none"> <li>(a) Officer Involved Shootings or any other critical incident that will be investigated by DCI Critical Incident Team or other outside agencies.</li> <li>(b) Officer Involved motor vehicle injury accident that will be investigated by the Wyoming Highway Patrol.</li> </ol>

<p><b>Review of Recordings</b></p> <p><b>Supervisor Responsibilities:</b> <b>990.5(A)</b></p>	<p>Supervisors are authorized to review relevant Mobile Video Recordings any time they are investigating reported misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance of reported;</p> <ul style="list-style-type: none"> <li>(a) Use of Force pursuant to Policy <b>201 Use of Force and Options including Deadly Force.</b></li> <li>(a) Pursuits or Officer Involved Traffic Crashes pursuant to Policy <b>101 Vehicle Operations and Pursuits.</b></li> </ul> <p>Recorded files may also be reviewed for other limited administrative purposes:</p> <ul style="list-style-type: none"> <li>(a) Upon approval by the Systems Administrator or Chief of Police, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.</li> <li>(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.</li> <li>(c) By media personnel with permission of the Systems Administrator or Chief of Police or the authorized designee in accordance of WY State Statue 16-4-2 Public Records.</li> <li>(d) Pursuant to a public records request outlined in section <b>Public Inspection and Public Records Requests.</b></li> </ul>
<p><b>After the Fact Recordings</b></p> <p><b>Officer Responsibility:</b></p>	<p>“Record After the Fact” (RATF) is a feature that allows for the retrieval of video without audio for up to two days while the BWC or In-Car Camera was powered on but not activated by the officer.</p> <p>This feature provides the capacity of capturing critical evidence during incidents that required an officer to react without the opportunity to activate their BWC or In-Car Camera. And, to capture other video consistent with policy and guidelines that an Officer would have otherwise been permitted or authorized.</p> <p>Officers that failed or were unable to activate their camera during a required event or need to use the RATF feature must notify their immediate supervisor, the Detective Sergeant or the Patrol Lieutenant to retrieve RATF video.</p>
<p><b>After the Fact Recordings</b></p> <p><b>Supervisor Responsibility:</b></p>	<p>Only designated supervisors are authorized to capture video recordings using RATF feature.</p> <p>Supervisors using RATF shall use care to ensure that only time periods and events being captured are permissible under this policy and are correctly categorized with one of the metadata options.</p>

<p><b>Property and Evidence Manager Responsibility: 990.6</b></p>	<p>Property and Evidence Manager or their designee will be responsible for the following:  Property and Evidence Manager or their designee will be responsible for the following:</p> <ul style="list-style-type: none"> <li>(a) Evidence Requests submitted by the Park County Prosecuting Attorney’s Office, Cody City Attorney, or other State or Federal prosecutorial agencies in keeping with the rules of discovery with prior approval of the Chief of Police, City Attorney, or upon court order.</li> <li>(b) Reviewing and Redacting MVR media of protected information prior to public release or viewing unless total disclosure is required by law or order of the court.</li> <li>(c) Providing MVR media pursuant to approved open records requests.</li> </ul>
<p><b>Uploading of Recordings: 990.6(A)</b></p>	<p>All Mobile Video Recording shall be downloaded in the officers assigned secured docking station or by wireless transfer at designated access point.</p> <p>Officers will insure all Mobile Video Recording are uploaded as soon as possible, but no later than the end of the officer’s shift. In the event an officer is in anyway or for any reason incapable of securely storing, uploading or docking their BWC, the officer’s supervisor or designee shall take control of the BWC as soon as possible and assume all responsibilities for storage, download and docking.</p>
<p><b>Storage of Recordings: 990.6(B)</b></p>	<p>All Mobile Video Recordings, data and files shall be stored on an in-house server managed by the department, or on a secured cloud database managed by an authorized third-party vendor.</p>
<p><b>Retention of Recordings: 990.6(C)</b></p>	<p>All Mobile Video Recordings, data and files shall be securely stored and retained in accordance with all applicable laws, policies, and procedures of the department. No recordings, data or files shall be retained longer than is necessary for the related purpose unless deemed appropriate by the Program Administrator for training purposes.</p> <p>All Mobile Video Recordings related to any criminal proceeding, claim filed, pending litigation, or personal complaint, shall be preserved until that matter is resolved and in accordance with the law.</p> <p>Retention is automatically assigned based on category entered into the system.</p>
<p><b>Retention Category Definitions: 990.6(D)</b></p>	<p>Each discreet recording or file shall contain information related to the date, BWC identifier, assigned officer, and the category of the recording. Officers shall categorize each Mobile Video Recording with one of the metadata options;</p> <p><b><u>CITIZEN CONTACT</u></b> – Any citizen contact Officers may have, in which no enforcement action is taken and no additional investigation or review is expected, <i>(90 Days Retention)</i>.</p> <p><b><u>WARNING</u></b> - Used for traffic violations (not involving MVC), or criminal warnings either verbal or written, <i>(90 Days Retention)</i>.</p> <p><b><u>TRAFFIC CITE</u></b> – Traffic Citation (not involving MVC), both Municipal Court or Circuit Court Misdemeanor, <i>(180 Days)</i>.</p> <p><b><u>NON-EVENT</u></b> – Actions initiated by the officer or by calls for service where</p>

	<p><i>no crime occurred, no action is taken, and no administrative review will occur. This category is also used for any unintentional activation, testing the unit, or other training purposes, (90 Days).</i></p> <p><b><u>MISDEMEANOR</u></b> – Citation issued or in custody arrest for Circuit Court Misdemeanor or Municipal Ordinance Violations, (5 Years).</p> <p><b><u>MVC</u></b> – Motor Vehicle Crash, any Traffic Accident Injury/Fatality, or Traffic Accident Non-Injury, (5 Years).</p> <p><b><u>AOA</u></b> – Assist Other Agency, any time we assist EMT’s/ DFS/ CFD or other governmental agency where no enforcement action is taken. (90 Days)</p> <p><b><u>WARRANT</u></b> – Arrests solely pursuant to an active warrant or the execution of a search warrant with no further enforcement action and no arrest that would not be further categorized as MISDEMEANOR or FELONY. (90 Days)</p> <p><b><u>ANIMAL</u></b> – This would encompass ANY non-enforcement animal related call, (90 Days).</p> <p><b><u>FELONY</u></b> – Arrest or Investigation of any felony offense, (10 Years).</p>
<p><b>Record Retention Schedule:</b> <b>990.6(E)</b></p>	<p>All Mobile Video Recordings shall be retained for a period consistent with the departments record retention schedule in accordance with Wyoming State Statues. In no event will any recording be retained for less than 90 days, except in the case of an Unintentional Recording as outlined.</p> <p>APPENDEX 1 - State of Wyoming Retention Schedule and Archival Review (updated April, 4, 2018).</p>
<p><b>Criminal Justice System Coordination and Records Request:</b> <b>990.7</b></p>	<p>When coordinating the release of Mobile Video Recordings to parties involved in a criminal or civil action that necessities the release of the recordings, the department shall comport with all standard discovery rules.</p> <p>All discovery requests will be made through the Park County Prosecuting Attorney’s office, Cody City Attorney, or other State or Federal prosecutorial agencies. Those offices will accept all Mobile Video Recordings as a result of a discovery request, work with CPD Property and Evidence Manager to redact the files as necessary, and route the file to the appropriate attorney, defendant, or other third party.</p>
<p><b>Public Records Requests:</b> <b>990.7(A)</b></p>	<p>Mobile Video Recordings, data and/or files shall be treated as official records and handled pursuant to existing department policy and Wyoming State Statue for Public Records 16-4-2 as it relates to the inspection of police video recordings.</p> <p>Public Records Requests will be made in writing on the “City of Cody Public Information Request Form”, processed in accordance to department policy and approved by the Chief of Police, City Attorney, or upon court order.</p>
<p><b>Public Inspection:</b> <b>990.7(B)</b></p>	<p>Title 16, Chapter 4, Article 2 of Wyoming State Statutes regulates the inspection of police video. <b>Police video is not a public record per state law.</b> The Property and Evidence Manager shall allow the right of inspection to law enforcement personnel or public agencies for conducting official business or</p>

pursuant to a court order.

- The Property and Evidence Manager will redact information that is not related to the case, unless there is a Court order to include the entire video.

The Property and Evidence Manager may allow the right of inspection:

- To the person in interest;
- If the information involves an incident of deadly force or serious bodily injury as defined in W.S. 6-1-104(a)(x);
- In response to a complaint against a law enforcement personnel and the Property and evidence Manager of the information determines inspection is not contrary to the public interest;
- In the interest of public safety

Inspection of video **will be denied** for the following reasons, unless approved by the Chief of Police or required by court order:

- The investigation is active or the video involves a victim statement
- The investigation involves a domestic call (to include civil standby), stalking or sexual offense
- The video was recorded at a school, on a school bus, or children appear in the video
- The video was recorded in a medical facility, ambulance or during medical treatment (excluding DUI blood testing)

Supervisors who have used video to investigate complaints against law enforcement personnel may refer complainants to the Property and Evidence Manager to schedule inspection of the video.

The Property and Evidence Manager will ensure that all other protected information as outlined in the public records law is redacted from the video before it can be viewed by the public and that the video is not recorded when being inspected.

The public will be given the following video advisory before being allowed to inspect police video:

*No video equipment or phones will be allowed in the viewing area*

*You are about to view a camera recording of a police event.*

*Understanding that while this recording depicts visual information from the scene, the human eye and brain are highly likely to perceive some things in stressful situations differently than a camera records them, so this photographic record may not reflect how the involved officer or witnesses perceived the event.*

*The recording may depict things that the officer or witness did not see or hear. Those involved may have seen or heard things that were not recorded by the camera. Depending on the speed of the camera, some action elements may not have been recorded or may have happened faster than the officer or witness could perceive and absorb them. The*

	<p><i>camera has captured a 2-dimensional image, which may be different from an officer's 3-dimensional observations. Lighting and angles may also have contributed to different perceptions. The camera did not view the scene with the officer's unique experience and training.</i></p> <p><i>Hopefully, this recording will enhance your understanding of the incident. Keep in mind, these video images are only one piece of evidence to be considered in reconstructing and evaluating the totality of the circumstances. Some elements may require further exploration and explanation before the investigation is concluded.</i></p>
<p><b>Program and Policy Review: 990.8</b></p>	<p>The Body Worn Camera and In-Car Audio/Video Recording Program, in its entirety shall be audited annually to ensure fulfillment of the purpose and objectives of the program, compliance with operational procedures, retention policies, storage, data security, access, use, and release of Mobile Video Recording, data and files specific in this policy and applicable laws and ordinances.</p> <p>The BWC and In-Car Camera Administrator will consult with the City Information Technology Department relating to equipment and software functionality, and the Property and Evidence Manger relating to all aspects of the recovered data.</p>
<p><b>Use of Digital Evidence for Training or Debriefing Purposes: 990.9</b></p>	<p>When a recorded incident is believed to be of value as a training aid for employees or for the purpose of conducting a tactical debrief, the recording officer should request approval through their chain of command to the BWC/In-Car Program Administrator. If the Program Administrator determines the incident would be an appropriate training or debriefing aid, the Administrator will coordinate the material to be used.</p>