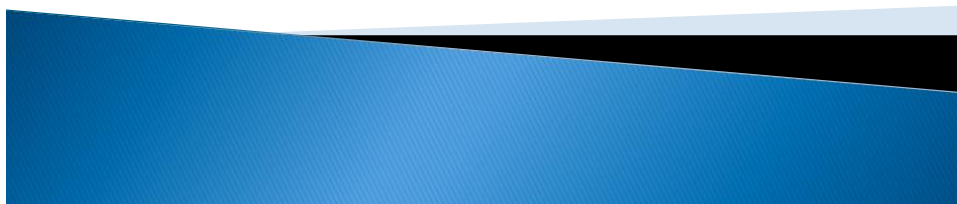




Body-Worn Cameras: Privacy and Confidentiality for Victims

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I. To Record or Not To Record

- ▶ Police in most jurisdictions do **not** continuously record
- ▶ In order to promote accountability, most commonly, police activate their cameras when responding to call for service, and law enforcement related encounters
- ▶ The problem is BWC's can invade a victim's privacy



II. When is it a Problem?

- ▶ **Recording in individual's homes** – higher expectation of privacy
 - ▶ Could capture minors on video
 - ▶ Could capture embarrassing or private encounters
 - ▶ Could capture bystanders
- ▶ **Cases of rape or abuse** – victim does not want to disclose on tape
- ▶ **Privileged communication and information** –
 - ▶ Recording can capture privileged and confidential information between victims and counselors
 - ▶ Tapes can capture medically privileged information (i.e. images and/or audio of EMT's assisting victim)



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III. What Should Police do to Protect Victim's Privacy?

- ▶ **Officer discretion** – Need for a balance to ensure that officers cannot manipulate the video record, while placing limits on recording to protect victim's privacy
- ▶ **Legal** – consult state laws regarding one party or two party consent on recordings
- ▶ **Notice** – Tell victims that you are recording
- ▶ **Victim discretion** – Ask victim if they mind being recorded
 - ▶ If they do, record their request prior to turning off camera
 - ▶ Have victim state why they do not want the recording



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IV. What Does the Public have the Right to See?

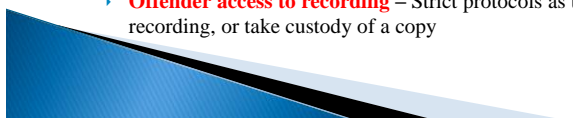
- ▶ **Both Federal and State “Freedom of Information” laws can make recordings accessible to the public**
- ▶ Private and personal images could be posted onto social media sites
- ▶ Videos could incite retaliation against victims
- ▶ **Easy accessibility to recordings could lead to the creation of rogue copies**



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IV. What Does the Public have the Right to See? (cont.)

- ▶ Strong protocols can ensure accountability, and protect privacy
 - ▶ **Accidental recordings** – Under what circumstances can officers erase?
 - ▶ **Length of retention** – Data should be retained no longer than necessary for the purposes for which it was collected
 - ▶ **Shorter retention periods are better than longer** – If the recording has no evidentiary purpose it should have a very short retention period
 - ▶ **Strong chain of custody** – Ensure that recording does not fall into the hands of someone may want to erase incriminating information, or who may want to publish private information of victim
 - ▶ **Redaction** – In cases of embarrassing or personal visuals protocols should allow for redaction
 - ▶ **Victim consent** – To the extent possible, obtaining victim consent to disclose recordings
 - ▶ **Video obstruction** – In necessary cases, visual and audio obstruction of victim identifying information
 - ▶ **Offender access to recording** – Strict protocols as to when and how offender can view recording, or take custody of a copy



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