



Los Angeles County EMS and Law Enforcement (LE) Co-Response (ELCoR) Task Force

LE Body Worn Cameras (BWCs) Guidance Document

a. Summary of general LE policies and use of BWCs

- i. Specific policy for use of BWCs varies by law enforcement agency.
- ii. General guidance for most LE agencies include¹:
 1. BWCs should be activated in the following situations:
 - a. Enforcement and investigative contacts including stops and field interview situations
 - b. Traffic stops
 - c. Self-initiated LE encounters
 - d. Any contact that becomes adversarial after initial contact in a situation that would not otherwise require recording
 2. Any person in contact with law enforcement equipped with BWC's should assume they are being recorded. LE should remain sensitive to the dignity of all individuals being recorded and exercise discretion to respect privacy whenever it reasonably appears to LE that such privacy may outweigh any legitimate law enforcement interest in recording however, there is no expectation of privacy related to the use of BWC's. LE may have discretion to deactivate their BWC, but this is on a case-by-case basis.
 3. Once activated the camera should remain on continuously until LE's direct participation in the incident is complete. LE shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or licensed physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636). If for some reason LE captures confidential information, the recording would remain secure and would be redacted if released pursuant to Public Records Act (PRA) laws.

One can expect that all encounters involving law enforcement activity will be audio and video recorded, however, in situations that involve patient privacy, it is the standard that law enforcement officers use judgment to discontinue recording.

¹Adapted from Lexipol California template. Lexipol is a commercial entity created by two attorneys (and former law enforcement officers) that provides state-specific public safety policy services and policy management software for law enforcement, corrections, fire and rescue and local government.

- iii. Camera Basics²
 - 1. There are multiple brands of BWCs used by law enforcement agencies.



Figure. 1. Axon Body 4 Camera is one example of a BWC used by law enforcement.

- 1. BWCs have approximately a 160-degree field of view and record audio within hearing distance.
- 2. A BWC can be activated by pressing a button which starts a recording.
- 3. A recording may include a period of video buffer with no audio prior to the camera being turned on (i.e. video recording only).
- 4. Cameras can be configured to allow muting for recording without audio, however the mute function may not be configured for all LE agencies.
- 5. The recording is turned off by pressing a button which stops a recording.

b. Best practices for EMS/LE interaction with BWCs

- 1. During times of LE activity, it is the standard that LE BWCs be turned on.

²https://my.axon.com/s/article/Axon-Body---Recording-an-event?language=en_US



2. It is suggested that BWCs enhance community perceptions of public service provider transparency and legitimacy^{3,4}.
3. During an EMS/LE co-response, situations that would benefit from patient privacy may occur. These include but are not limited to:
 - a. Patient history taking
 - b. Patient exposure for physical examination
4. Law enforcement agency BWC policies typically have parameters to stop recording, including instances where privacy is reasonably expected (example: [LASD Manual of Policy and Procedures 3-06/200.18](#)).
5. In the event of an EMS/LE co-response where an EMS clinician believes that a patient care scenario should not be recorded due to privacy concerns, this concern can be shared with the co-responding LE officer. Decision making for BWC use can be discussed between EMS and LE but, BWC deactivation is always at the discretion of LE.
6. In a situation where there is disagreement and muting audio would allay EMS privacy concerns, this resolution may be pursued if the LE agency BWC is configured to allow muting and the LE officer is agreeable to muting the recording.
7. For situations where there is disagreement between EMS and LE regarding BWC recording during patient care, the following communication strategy should be employed in a stepwise fashion until a final solution is agreed upon as appropriate for the circumstance:
 - a. The highest ranking EMS and Law Enforcement personnel on scene discuss their rationale for continuing or discontinuing BWC recording.
 - b. If there is continued disagreement, EMS and Law Enforcement supervisors should be requested to resolve the disagreement if time and circumstances allow.
 - c. If no resolution is achieved or circumstances do not allow for timely escalation to resolve the disagreement, EMS shall defer to Law Enforcement regarding BWC recording. In such a situation, it should be understood that a patient encounter may be recorded.

³Braga et al. The benefits of Body-Worn Cameras: New Findings from a Randomized Control Trial at the Las Vegas Metropolitan Police Department. 2017. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/benefits-body-worn-cameras-new-findings-randomized-controlled-trial>

⁴ California Peace Officers Association Fact Sheet: Body Cameras. <https://cpoa.org/wp-content/uploads/2016/04/Body-Cameras.pdf>. Accessed 5/4/2024.

⁵45 CFR § 160.103



c. Summary of legal considerations regarding BWC recordings

1. The Health Insurance Portability and Accountability Act (HIPAA) prohibits disclosure of “individually identifiable health information” defined as⁵:
 - a. Any information collected from an individual;
 - b. that is created or received by a covered entity;
 - c. relates to the condition of said individual or the provision of health care to said individual; and
 - d. identifies the individual or can be used to identify the individual
2. HIPAA only applies to covered entities (health care providers who transmit electronic health information) which does not include LE, thus LE has no obligation under HIPAA to turn off their body camera or otherwise limit disclosure.
3. LE agencies typically have records policies that consider personal privacy. In general, it is recommended that all BWC recordings be reviewed by the Custodian of Records prior to public release. Recordings that unreasonably violate a person’s privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court. Records custodians have the ability to redact information and/or patient identifiers if a record is released per standard record request procedures.
4. BWC footage is considered public record and can be requested under the California Public Records Act but is subject to redaction by the issuing LE agency.
5. Redaction of patient information:
 - a. When a request is made for LE body worn camera footage, individual law enforcement agency redaction policies and procedures may differ.
 - b. In general:
 - patient care content is redacted for patient privacy for public requests
 - in a civil case patient care content is typically redacted
 - in a criminal case patient care content is not redacted (recordings are provided “as is”).
 - If patient care content is released to the public, a “notice to consumer” must be completed.



- c. The individual law enforcement agency custodian of the record is responsible for redacting BWC recordings prior to release in compliance with state laws.
 - [SB1421](#)
 - [AB748](#)
 - [California Penal Code 832.10](#)

6. LE agencies follow standard procedures when releasing BWC footage to external requesting agencies. This process is by formal request stating the reason for request. Upon receipt of BWC footage, the receiving agency must treat the recording as confidential and shall only use it for purposes consistent with existing law.

Pursuant to 6254.5(c) and 7921.505(c) of the California Government Code. I am making this request in furtherance of official duties related to my assignment and I am authorized by my agency head to obtain this information. I understand that the Los Angeles Police Department, by providing this information, is not waiving any discretionary exemptions from broader release under the California Public Records Act by providing it. Our agency agrees to treat the disclosed material as confidential, and any information obtained by my agency shall only be used for purposes that are consistent with existing law.

Figure 2. Example records request from Los Angeles Police Department

7. LE BWC footage in an EMS encounter may be requested by an EMS provider agency through the above stated formal request process to aid in internal investigations at the discretion of the investigating entity.
8. It is possible for the LAC EMS Agency to request BWC footage to aid in an investigation if relevant per the records request process stated above, however, this is not a current standard for the LAC EMS Agency's investigative process.

d. Potential Beneficial Uses for EMS BWC (Insights from New Orleans EMS)

- a. Safety
- b. QA/QI
- c. Education
- d. Documentation accuracy
- e. Potential for Livestream if used by EMS (medical direction)
- f. Evaluate/Mitigate patient complaints