

Body-Worn Video
January 2016



London Policing Ethics Panel
Chaired by Lord Carlile of Berriew CBE, QC

Contents	Pages
About the London Policing Ethics Panel	3
Biographies	3
1. Executive Summary	6
2. Introduction	7
3. Background	7
4. Key Ethical Issues	9
5. Recording of Encounters	9
6. Control and Use of Footage	15
7. Conclusions	18
8. Recommendations	19

© London Policing Ethics Panel 2016
<http://www.policingethicspanel.london>

About the London Policing Ethics Panel

The 'London Policing Ethics Panel' (LPEP) is an independent panel set up by the Mayor of London, Boris Johnson, to provide ethical advice on policing issues that may impact on public confidence. As part of his Police and Crime Plan for London, the Mayor has challenged the Metropolitan Police to achieve a 20 per cent improvement in public confidence by 2016. LPEP will complement the existing structures in place in the capital to oversee the way London is policed, and will provide in-depth consideration of ethical issues around current and future policing practice in London.

Biographies

Lord Carlile of Berriew CBE, QC – Chair

Lord Carlile is a serving Life Peer of the House of Lords, a former MP of the House of Commons representing Montgomeryshire (1983-1997), a Bencher at Gray's Inn and a practising QC with Barristers' Chambers 9 - 12 Bell Yard. Lord Carlile sat as a Recorder of the Crown Court and as a Deputy High Court Judge. He was the Chairman of the Competition Appeal Tribunal from 2005 until 2013. Between 2001 and 2011 he was the Independent Reviewer of Terrorism Legislation; the Independent Reviewer of the Government's PREVENT policy, and remains the independent reviewer of National Security policy in Northern Ireland. He plays a senior role in the formulation of policy on mental health and youth justice. He was appointed a Life Peer in 1999 and was awarded the CBE in 2012 for services to national security. He is a Hackney resident and has lived and worked in London for many years.



Baroness Berridge of the Vale of Catmose

Elizabeth became Baroness Berridge of the Vale of Catmose in the County of Rutland on 20 January 2011. Within this role Elizabeth works on projects relating to policing, human rights and foreign affairs, as well as being patron of the Rutland foodbank. Elizabeth is Co-Director of the Commonwealth Initiative for Freedom of Religion or Belief, which is based out of the University of Birmingham. She also co-chairs the All Party Parliamentary Group on International Freedom of Religion or Belief, which spawned her interest in the Central African Republic, and is on the Steering Committee of the International Panel of Parliamentarians



for Freedom of Religion or Belief. Elizabeth is a member of the House of Lords Select Committee on Social Mobility and the Ecclesiastical Committee, as well as a trustee of British Future. She is a commissioner on the Conservative Party Human Rights Commission

Elizabeth studied law at Emmanuel College, Cambridge, and undertook barrister's training at the Inns of Court School of Law in London. She has lived in Trinidad and Tobago and Ghana, and remains keenly interested in both countries and their regions. Since 2005 she has lived in the London Borough of Westminster

Grace Ononiwu OBE

Grace took up her post as Chief Crown Prosecutor (CCP) for the CPS West Midlands Region (Incorporating West Midlands, Staffordshire, Warwickshire,



West Mercia and British Transport Police) in June 2014. Previously she was the Chief Crown Prosecutor for the CPS East of England Region (incorporating Essex, Suffolk, Norfolk and Cambridgeshire). As Chief Crown Prosecutor she is ultimately responsible for all prosecution decisions and conduct of cases by CPS lawyers throughout the Region. She also has a personal involvement in many

of those cases and there are occasions when she meets victims of crime or their families to explain the reasons for the decisions taken in cases that involve them. Grace qualified as a solicitor in 1991. She originally joined a private firm of solicitors in High Wycombe practising criminal law then joined the CPS as a Crown Prosecutor. Grace has held a number of positions in the CPS, which led to her ultimate appointment as Northamptonshire CCP in April 2005, making her the first African Caribbean to be appointed to that position in the history of the CPS. In April 2009 Grace was appointed Legal Director for North Region, CPS London, before becoming Deputy Chief Crown Prosecutor (DCCP) responsible for all the London Boroughs. Grace has made a significant contribution to the CPS Equality and Diversity agenda and was previously the Chair of the National Black Crown Prosecution Association. She was awarded the OBE in 2008.

Meg Reiss



Meg began her career as a prosecutor in Brooklyn, New York investigating and prosecuting both white-collar and violent crime, culminating in her appointment to the Homicide Bureau. In 2000, she joined the international investigative firm Kroll Inc. as a managing director, and in this role served as a deputy monitor of the Los Angeles Police Department under a landmark US federal consent decree that involved overseeing training of street officers and supervisors to reduce discriminatory practices and excessive force while building trust through community policing.

After a serving as global chief of internal investigations for Marsh, Inc, in 2005, Meg joined the Nassau County District Attorney's Office ultimately being promoted to Chief of Staff overseeing more than 350 prosecutors, investigators, and support staff while launching an award - winning Drug Market Intervention initiative that reduced overall crime by 71% and drug crime by 87% in its first year. Meg relocated with her family to London in July of 2012. After finding a home in Hammersmith and settling her daughter into school, she became a member of the federal monitor team working on behalf of the US Department of Justice, Financial Conduct Authority, and Federal Reserve Bank of Chicago, overseeing HSBC's compliance with the terms of their deferred prosecution agreement.

Professor Leif Wenar



Leif Wenar is Professor at the School of Law, King's College London, where he holds the Chair of Philosophy and Law. His degrees in Philosophy are from Stanford and Harvard, and he has been a visiting professor at Stanford and Princeton and the Carnegie Council Program on Justice in the World Economy. He is an editor of *The Ethics of Philanthropy*, and the author of a new book, *Blood Oil: Tyrants, Violence, and the Rules that Run the World*. Since first moving to London in 1998 he has lived in Chelsea and Brixton, and since 2004 in Bloomsbury near King's Cross.

1. Executive Summary

Body-Worn Video (BWV) has the potential to improve public trust in police conduct and to aid the detection and prosecution of crime. However, there are some important ethical issues to be addressed if these objectives are to be achieved. These concern the circumstances in which BWV footage is collected and the subsequent use which is made of that footage.

We consider that the guidance produced by the Metropolitan Police Service (MPS) for the trials of BWV since June 2014 is generally sound and addresses most of the ethical concerns. **We recommend** however that:

- the MPS should consider what confidence-building measures might be introduced to enable the public to see how BWV is being used in practice;
- officers should be given clearer guidance to help them to decide in what circumstances use of BWV might not be proportionate and to assist them in handling situations where statements are being sought from witnesses who may be reluctant or unwilling to cooperate while BWV is activated;
- the MPS should arrange for data on the use of BWV to be collected and for the overall effectiveness of BWV employment to be reviewed at regular intervals, taking account of the views of users and of others, including the CPS and the courts, who may make use of its product.

We note that the MPS is fully alive to the need to enlist public support for the roll-out of BWV from 2016 and we endorse the plan to adopt a proactive stance to explain its introduction. **We recommend** that:

- the roll-out of BWV should be accompanied by a strong public information programme to explain, in plain language, why and how the new technology is being introduced. This should emphasise that BWV is being introduced not only, or even primarily, for the benefit of the police but also for the public and with the aim of improving transparency and accountability in the policing of the capital. It should also make clear the safeguards that are involved.

2. Introduction

1. The Metropolitan Police Service (MPS), along with a number of other forces, has conducted operational trials of Body-Worn Video (BWV) technology, with a view to wider roll-out of the system across the service as a whole early in 2016. BWV consists of a miniature lapel-worn camera which, when activated, records audio and video footage of a police officer's encounters with others. The product of such recordings is uploaded at the end of each shift of duty onto a secure server and retained for a specified period of time. It can be drawn on to establish the facts of specific encounters and, if and when necessary, to support criminal proceedings.

2. BWV provides an additional window onto the conduct of policing and, where necessary, can supply reliable data for use in considering complaints against officers or in pursuing criminal proceedings. As such it has the potential to improve both the transparency of policing and the detection of crime. It does, however, raise some important ethical issues which we consider in this report.

3. Background

3. The MPS has conducted trials of BWV in ten London boroughs over a period of twelve months. Cameras were allocated only to Emergency Response Teams at constable rank as these were the officers who most frequently attend at incidents or at stop-and-search encounters. We have received a full briefing on the results from both the MPS and the Mayor's Office for Policing And Crime (MOPAC). We have studied the interim guidance for use of BWV which the MPS issued to officers and we have studied the report on the results of the trials. Some of our members have also participated in operational patrols with MPS officers to see at first-hand how BWV works. We have been provided with a detailed demonstration of the method of operation of the equipment.



4. Over the twelve-month period of the trials there were some 48,000 recordings made by officers wearing BWV. This resulted in around 12,000 hours of audio/video footage, representing an average of around 15 minutes per recording. 28 per cent of the recorded footage was marked as 'evidential' with the potential for use for criminal justice purposes.

5. The report on the trials showed that, where BWV had been used, there were fewer complaints against officers, though the difference was not considered to be statistically significant. However, where BWV was used, there were significantly fewer allegations¹ against officers, particularly of oppressive behaviour. The report comments that *"there is evidence from officer interviews of particular instances where BWV has changed behaviour"* and that *"officers also gave anecdotal evidence of using BWV recording to achieve early resolution of potential issues with little grounds, preventing them from becoming formal complaints"*.

6. Analysis of the results of the trials revealed no overall evidence that the employment of BWV had an impact on the number of stop-and-search incidents or on the quality or nature of the searches. Similarly, there was no evidence that BWV increased the rate of arrest for violent incidents. However, the report on the trials states that officers equipped with BWV felt more confident of capturing quality evidence, particularly in relation to domestic abuse incidents. Many officers felt that, in the words of the report, *"the ability to accurately present evidence, rather than depending solely on memory, was a key benefit, as well as revealing a level of detail, emotion and intricacy not possible to capture in written statements"*.

7. There has been general support for BWV among officers taking part in the trials, who have felt that, in addition to assisting in the detection of crime, it increases their own accountability (by making them mindful of their own behaviour) as well as helping to protect them against unfounded allegations. There are some striking examples of the latter. The report on the trials also indicates, however, that some officers had concerns that BWV could fetter their discretion, might not accurately reflect the dynamics of an incident or could make them unduly self-conscious and over-focused on applying the letter of the law.

8. In July 2014 the MPS issued interim guidance for the use of BWV². This sets out the principles for use – for example, that BWV does not replace evidence from other sources, such as eye witnesses, and should be used only for corroboration – and addresses various aspects of its use, such as the circumstances in which BWV is to be activated; the need to make clear at the scene of an incident that recording is taking place; how the product is to be uploaded and secured; and the uses to which uploaded footage may and may not be put. We address some of these issues in the paragraphs that follow.

¹ A complaint can contain a number of allegations

² MPS Body-Worn Video Manual of Guidance - Operational Considerations

4. Key Ethical Issues

9. The ethical implications of BWV use can be considered under two main headings:

- the activation of BWV and the recording of police encounters;
- the custody and use of uploaded BWV footage.

10. As a preliminary to reporting, we sent a questionnaire to the MPS to seek its views on a number of questions which we had identified as arising under these two headings. We are grateful to the MPS for the full and clear response which it provided. As the MPS has observed, many of the issues which arise in regard to employment of BWV are already covered by existing legislation - for example, the 1998 Data Protection Act, the 1998 Human Rights Act and the 2000 Freedom of Information Act.

5. Recording of Encounters

Privacy

11. We have considered to what extent the employment of BWV in police encounters with the public might reasonably be regarded as an intrusion on personal privacy. The widespread installation in recent years of closed-circuit television (CCTV) cameras means that our activities in public places are already commonly recorded and we are aware that there have been concerns in some quarters about the implications of this for personal privacy.

12. We consider that there is an important difference between CCTV and BWV. Whereas the former comprises undisclosed (though often visible) recording of what happens in a given place, BWV is an open process which is directed to the gathering of footage relating to specific situations. It is essentially an evidential tool designed to establish what is happening and what is said in specific incidents to which officers have been called, rather than a means of general observation of social behaviour in given locations.

13. BWV is an overt recording system. The MPS's guidance states that it is "*not to be used for covert recording except in exceptional circumstances and where the necessary authorities have been granted*". For this reason, where BWV is activated in an encounter, the person or persons approached must be informed "*in straightforward language*" that recording is taking place, unless the circumstances of the incident or the behaviour of those present make it impracticable to do so - for example, if officers find themselves faced on arrival with having to break up a fight. The equipment itself is visible and displays a red light to show that recording is taking place, and it is likely that within a short time the public will assume that it is in use.

14. The MPS's guidance states that *"recording should, where practicable, be restricted to those individuals and areas where it is necessary in order to provide evidence or intelligence relevant to the incident"* and that *"it is important that, where practicable, users minimise collateral intrusion on those not involved in the incident"*.

15. We do not consider that the introduction of BWV forms part of the debate on what some call state surveillance. It cannot fairly be described as 'snooping', and without doubt it serves the public interest. That is not to say that its use does not need to be protected by careful safeguards for the members of the public filmed and the officers who use it. In the paragraphs which follow, therefore, we address some specific issues connected with the recording process.

"We do not consider that the introduction of BWV forms part of the debate on what some call state surveillance. It cannot fairly be described as 'snooping', and without doubt it serves the public interest."

When to Record

16. Under the MPS's interim guidance it is for officers themselves to decide when BWV is to be activated and deactivated, and recording is to be incident-specific rather than continuous. We believe this is the correct approach. To require that recording should take place for the duration of an officer's duty shift would result in vast quantities of unnecessary footage. It would also intrude on the privacy of officers themselves who, like other people, are entitled to reasonable privacy (for example in their ordinary interaction with colleagues) during a turn of duty when they are not engaged in specific operational activities.

17. However, while the final decision rests with the officer concerned, the MPS's guidance recommends, as a general principle, that BWV should be activated if it is considered that it may provide a record of evidence in respect of an offence or a suspected offence or that its use may improve transparency in an encounter. It states that *"the threshold for deciding whether an incident will be of evidential value is a low threshold"* and that *"it is better to have recorded the footage and not need it than not to have recorded anything and subsequently finding that evidence was missed"*.

18. The guidance also lists a number of specific situations where there is an expectation that BWV will be activated. These include occasions when an officer:

- stops a motor vehicle in order to engage with one or more of the occupants; or
- attends at premises in order to effect an arrest; or
- stops a person in a public place in order to ask that person to account for his or her actions in order to establish whether he or she has been involved in an offence; or
- conducts a search of a person, premises, land or vehicle; or
- is or may be required to use force.

Where officers do not activate BWV in these or other circumstances which might be considered appropriate, they must account for their decisions in their statements. It is certain that failures to activate will be tested in courts.

19. The MPS's guidance states that *"when making a decision whether to record an incident or part of an incident, users must consider whether using BWV is proportionate and necessary in the circumstances"*. While we recognise that proportionality is an important ingredient of all policing and that in the last analysis it is for the officer on the spot to make a judgement of whether activation of BWV is proportionate, we suggest that clearer guidance is desirable about the kind of situations where activation of BWV might be regarded as disproportionate. The guidance is clear about those circumstances in which there is an expectation that BWV will be used but it is less specific about the kind of situations where its employment might not be appropriate. Are we talking, for example, only about wholly innocent encounters, such as where a member of the public approaches an officer for directions? Or does inappropriate activation of BWV go wider than this? We suggest that the guidance given to officers should be clearer in this respect.

Requests to Activate or Deactivate

20. Should a person or persons approached by an officer have the right to require that recording should cease? Conversely, should a member of the public have the right to insist that recording should take place if that is not already happening?



21. The report on the BWV trials records that some officers equipped with BWV were requested to turn their cameras off by persons stopped and searched, by suspects, by victims or by the general public. While plainly it is open to anyone to request that recording should not take place, we consider that the decision whether or not to record in any situation should rest with the officer concerned but that, in the event that the officer's decision is to override the request, the reasons for doing so should be explained (albeit briefly) to the person concerned along with the safeguards that exist - eg the Data Protection Act and the regular and routine deletion of non-evidential footage (see below). While circumstances could arise where recording might be inappropriate or need to be limited, recording the facts of an encounter and how it is handled should in our view be the norm.

22. Given this presumption in favour of recording, we consider that, if a member of the public requests recording of an incident when it is not already taking place, the officer should comply with the request while informing the person making it that the footage will be retained only if there is an evidential reason to do so. Again, it is conceivable that circumstances might arise where a request to record would have to be declined, but an officer who does so must be prepared to explain his or her decision, if possible to the requesting person at the time, and certainly to his or her superiors after the event.

Collateral Intrusion

23. So far we have considered the activation of BWV in situations where officers decide to approach a member (or members) of the public or are called to an incident involving individuals. However, there may be other situations - for example, if officers are called to deal with an incident of public disorder or to a suspected offence (eg a stabbing) and where on arrival they encounter not an individual, but a crowd, some of whom may have been involved in the offence in one way or another while others may be innocent bystanders. The question arises: how should such situations of 'untargeted' recording be handled?

24. The footage recorded on the officers' arrival at the scene might reveal important evidence as to what has taken place. It might also point to individuals who may have been involved in the offence or to persons who may have witnessed what has happened. The MPS's view is that, unless it is impracticable to do so because of the nature of the situation or the behaviour of those present, officers should make clear in plain language that recording is taking place and that it should then be for any bystander at an incident to decide whether or not remove him/herself from the scene. We concur with this view.

25. This should not, however, prevent officers from approaching individual members of the public and seeking their help - for example, asking potential witnesses for statements as to what they saw or heard. Such situations need to be handled with sensitivity. For example, a witness who is asked to give a statement may ask for recording to be suspended while doing so. In that event we consider that it would be reasonable for the officer to comply with the request if otherwise the person concerned would be unwilling to make a statement - though the officer must record that he is switching off his equipment and why. The use of BWV generally in seeking statements from witnesses, including identification of potential witnesses from BWV footage after the event, is an area where in our view the guidance issued to officers would benefit from greater clarity.

26. We do not consider that there is any reason why the footage gathered cannot be examined after the event by those investigating an offence in order to aid crime detection or to support criminal proceedings. The footage in question would have been gathered openly and its use as a tool in the detection of criminal activity can be beneficial to the community as a whole. Provided that it is examined in the context of a specific incident or offence and with a view to establishing a clear picture of what took place and/or who might have been involved, it cannot be seen as public surveillance. To the contrary, it should be seen as another pair of eyes on the event.

Sensitive Situations

27. Some police encounters with members of the public are potentially sensitive - for example, where an officer is called to a scene where domestic violence has or might have taken place or where a serious sexual offence has been committed. Particular care needs to be exercised in such situations to ensure that the needs or welfare of victims are not prejudiced by the need to collect evidence.

28. The MPS has observed to us that BWV has the potential in such situations to support victims by providing evidence which may not otherwise exist. For example, where officers are called to scenes of apparent domestic abuse, capturing the initial statements, appearance and demeanour of those present can provide important factual evidence (e.g. if the victim was visibly injured or showing signs of distress) as well as useful insights into attitudes, and it can show something of the impact of serious offences on victims. The incident may, the MPS points out, be part of a wider picture of abuse against a vulnerable victim and recording may empower vulnerable victims to support action against offenders. Its guidance states that "*the benefits of capturing evidence of demeanour, language, the scene and the behaviour of those present can be used to support domestic violence investigations*".

29. However, the guidance also requires officers to consider whether victims or witnesses may be vulnerable and, if that appears to be so, to limit recording at the scene to obtaining an initial account of what has happened and what action has been taken. Wherever possible, in-depth interviewing should be conducted under less pressured and more calmly controlled circumstances.

30. We have considered whether recording, where it is taking place in a specific context, should be extended to include apparent evidence of other offences. As an example, an officer called to a scene of apparent domestic violence might come across criminal damage, such as broken furniture or smashed glass, which could have a bearing on the offence for which the officer has been summoned. We consider that in such circumstances the evidence of a second offence should be recorded, especially if it is thought likely that there is a potential connection with the offence for which the officer was called. However, this must be done in a way that does not distract unduly from recording evidence of the initial offence and that does not inflame an already tense situation.

31. As regards serious sexual offences, the MPS has told us that it has consulted various stakeholders, including the Crown Prosecution Service, Rape and Child Abuse Command, and Rape Survivors Groups, and that the consensus is that recording of initial statements at the scene should comprise only the establishment of the basic facts of the alleged offence and the acquisition of information necessary for the protection of the victim or of the wider public. The guidance also states that *"the user must seek the victim's explicit permission for BWV recording of such an account"*.

32. The MPS's approach to these situations is in our view practical, sensible and ethical, as is its guidance requiring particular sensitivity in the event that officers should find themselves having to use BWV in places (for example, if they are called to an incident in public toilets, changing rooms or hospital treatment areas) or in situations (for example, where a body search involves exposure of intimate body areas) where a higher than usual level of personal privacy is warranted.

Transparency of Police Behaviour

33. BWV is not just about capturing footage of members of the public. It is also able to show how officers handle encounters with the public and, as we have observed, many officers involved in the trials have said that it has made them mindful of their own behaviour. The MPS's guidance observes that *"BWV footage can be important in resolving complaints"* and that *"footage from incidents can be used to identify poor performance and learning opportunities"*.

"BWV is not just about capturing footage of members of the public. It is also able to show how officers handle encounters with the public..."

34. Such transparency goes beyond specific incidents. The guidance encourages supervising officers to review BWV footage *"as a supervision tool and as a means of improving performance and to identify training needs"*, especially in areas such as stop and search. We endorse this approach. We consider also that BWV has the potential to help officers who may be troubled by what seems to them inappropriate conduct on the part of colleagues to bring their concerns to the attention of their supervisors. There is no doubt that BWV has the potential to help uncover habitual or repeated unacceptable behaviour by officers: this should encourage appropriate whistle-blowing.

6. Control and Use of Footage

Retention

35. The MPS's guidance requires that *"all BWV footage should be uploaded onto a secure server as soon as practicably possible"* and that a decision must then be made whether it is likely to be required at a future date. The guidance includes a flow chart showing the actions to be taken in the event that footage is likely or unlikely to be required. Briefly, footage that is unlikely to be needed for evidential purposes is to be marked for automatic deletion after 31 days, while footage likely to be required is to be set aside and retained on the server until no longer needed.

36. The guidance states that *"the need for retention must be justifiable and tangible. Simply retaining footage in case it may be required is not a strong enough test"*. Supervising officers are expected to *"intrusively supervise their officers and ensure that any footage retained is being kept for a justifiable and objective purpose"*.

37. Where footage is judged likely to be required, working copies of all or part may be made, but the master copy, showing the full original recording, must be retained securely on the server and be available for production to a court if required. Suitable evidential trails should be established so that the reasons for retention can be reviewed, and tested if necessary.

Authenticity

38. In the event that footage is needed as evidence in criminal proceedings, a court will require a continuity statement to confirm its authenticity. The guidance specifies that such statements must show the serial number of the BWV recorder used; the date, time and location of the recording; the date and time on which the master copy was retained; and whether any person has had access to the recording. We were told that the servers on which BWV footage is retained automatically record any such access and by whom, so it should be clear if someone has attempted to tamper with uploaded footage.

Disclosure

39. There are, however, bound to be occasions when access to recorded and retained footage is required. For example, where criminal proceedings have been undertaken, the prosecution and defence teams may need to review footage to assist them in preparing their cases. The guidance states that, *"when initially disclosing the existence of BWV material to the defence, a suitable summary of the evidence contained therein will suffice"* and that *"it should only be necessary to provide copies of the BWV to the defence in the case of actual or anticipated not guilty pleas"*. The normal rules of disclosure for criminal cases will apply to defence disclosure – namely, that the defence is entitled to disclosure of product which could materially undermine the prosecution case or materially assist the defence case. This obligation must be recognised in the guidance, and summaries will suffice only as an initial step.

40. The above has been recognised. In the view of the MPS disclosure of BWV footage is, like other forms of disclosure, governed by existing legislation and codes of practice, such as the Police and Criminal Evidence Act, the Criminal Procedures and Investigations Act and the Data Protection Act. *"At this time", we were told, "the MPS position is there is no need to introduce new rules or guidance specifically for BWV as the existing frameworks are sufficiently comprehensive to govern access to footage by subjects".* We concur with this view.

41. It is also possible that a member of the public making a complaint may wish to view footage of an incident which affects him or her. Such requests should be granted where proportionate – not when trivial or vexatious. In such circumstances the guidance requires that the viewing should be recorded (in the sense of annotated) and that consideration should be given to whether the identities of persons who may appear on the footage but are not connected with the incident should be obscured. We endorse this caveat. Members of the public have a right (as described above) to view an encounter as it relates to themselves but the privacy of others should be protected.

Transparency

42. While these policies are sensible and reasonable in themselves, it is important that the public should feel confidence that they are being put into practice in everyday policing. We therefore asked the MPS how in their view transparency might be introduced into the retention and use of BWV.

43. The MPS told us that it was keen to explore how transparency might be improved and that it was currently running a pilot scheme in two London boroughs in which the Chairs of the Community Monitoring Networks³ are invited to view raw footage of 50 Stop-and-Search encounters, randomly selected by them, and to provide feedback direct to the Borough Commanders. It will be helpful to see the results of this pilot scheme.

44. We have considered other possibilities, such as whether randomly-selected raw footage could perhaps be streamed onto the internet, with identities of individuals removed, so that a wider public could see how encounters are taking place. However, we are sure there could be real problems of privacy here. While the faces of individuals could undoubtedly be blurred, other parts of footage could give clues to identities; and some people could object to their localities being streamed as potential scenes of crime.

³ This is an MPS initiative whereby local community monitoring groups are able to scrutinise police behaviour, particularly in relation to Stop and Search encounters, and to provide local communities with a voice into their policing organisations



45. In our view further work is needed on devising ways by which the public can be reassured that BWV footage is being stored, managed and used with propriety. We are pleased to see that the MPS is alive to this need. The report on the BWV trials states that *"for transparency to be maximised, BWV footage needs to be accessible and decisions regarding video access, dissemination and review will need to be made"*. This need not hold up the roll-out of BWV across the MPS but should run in parallel with it. We stand ready to help constructively if requested. A form of both specific and randomised review or inspection by persons trained in the task and independent of operations seems desirable.

Other Disclosure

46. It is possible that BWV footage could assist the detection of crime if made available to the public in Crimewatch-type situations - for example, to encourage witnesses to come forward. The MPS has told us that its release of images to the public, from any source, is governed by the Management of Police Information (MoPI) guidelines and that in its view release of BWV footage should be treated in the same way as other existing forms of image release - eg from CCTV - and that it should be resorted to only if necessary and if proportionate to the circumstances. A key element of the existing policy, we were told, is the need to minimise collateral infringement of personal privacy.

47. In this context we have considered whether there could be circumstances where the police might share recorded footage with third parties who have a duty of care for individuals captured by BWV. We have in mind here minors and other potentially vulnerable people whose interests parents or guardians and/or doctors, mental health professionals or social workers have a responsibility to protect. The MPS has told us that it has a statutory duty to work with partners to protect children and other potentially vulnerable persons. This includes in many

cases agreements involving the sharing of information and that disclosure of BWV footage would fall to be considered under these. For parents and other third parties the MPS view is that disclosure should be considered if proportionate and if necessary to protect life or property, to preserve order, to prevent the commission of criminal offences or to bring offenders to justice. We endorse this approach.

7. Conclusions

48. Good policing requires that law-breakers are brought to justice by officers who are accountable to the public for their behaviour. BWV is an advance in technology with the potential to fulfil both these objectives - to increase public confidence in police conduct and to improve the detection and prosecution of crime. With accurate recording of policing activity all parties, except those engaged in criminal activity, stand to gain. BWV has the potential to advance considerably safe and verifiable policing.

49. However, if these beneficial outcomes are to be achieved, it is important that steps are taken to explain clearly to the public what BWV is – and, at least as important, what it is not; why it is being introduced; and how it is to be used. The report on the trials records that opinion polling has shown that London residents are generally supportive of BWV, with 95 per cent believing that it will help the police to gather evidence of criminal activity. The majority feel that it would not be an invasion of privacy or make the police less approachable and that it would prevent false accusations against officers. It is important to build on this support and we are pleased to see the statement in the MPS report on the trials that *"external communication, consultation and transparency should be at the forefront of the wider roll-out of BWV"*. There is in our view a need for a plain-language publicity programme focusing on a number of key messages. One of these should be that BWV is not being introduced solely, or even primarily, for the sake of the police. It is certainly a valuable tool in the detection of crime but it also provides the public with objective means of holding officers to account and of substantiating their cases in the event that they should feel that they have been treated unfairly.

50. It is also important to emphasise that, precisely because BWV is able to shed light on police encounters with the public, it can be expected to result (as officers engaged in the trials have found) in making them mindful of the need to avoid insensitive or otherwise inappropriate conduct and, in consequence, of making such behaviour less likely. No one who is behaving within the law should have anything to fear from the introduction of BWV, which is about bringing truth and transparency into policing and the detection and prosecution of crime.

“No one who is behaving within the law should have anything to fear from the introduction of BWV...”

51. We consider that the interim guidance issued by the MPS is generally sound and covers most of the ethical issues concerned in the use of BWV. There are, however, a few areas where we believe further attention is needed and to which we have drawn attention above. These include the need for greater clarity regarding the proportionate use of BWV and situations where potential witnesses may be reluctant to make statements while BWV recording is active; and the development of confidence-building measures to enable the public to see how BWV is being employed in practice.

52. We would add to these the need for regular audit of BWV use. The aims of introducing BWV are entirely reasonable and laudable but it is necessary to ensure that they are being realised in practice. We consider therefore that the MPS should put in place arrangements to measure the outcomes of BWV on policing generally and on specific aspects of police work including the number, characteristics and handling of stop-and-search encounters, the number of complaints and allegations against officers and criminal justice outcomes. Such reviews should take into account the experience not only of users of BWV but also the views of others, including the Crown Prosecution Service, the courts and the judiciary, who may make use of the product of BWV.

8. Recommendations

53. The MPS should accompany its roll-out of BWV with a strong public information programme to explain, in plain language, why and how the new technology is being introduced. This should emphasise that BWV is being introduced not only, or even primarily, for the police but also for the public and with the aim of improving transparency and accountability in the policing of the capital. It should also make clear the safeguards that are involved.

54. The MPS should give further consideration to what confidence-building measures might be introduced, drawing on its experience of the deployment of BWV, to enable the public to see how police encounters with the public are being handled. Any such measures should also meet the requirement to safeguard the privacy of individuals.

55. The MPS should consider what clearer guidance might be given to officers in regard to the proportionate use of BWV. Given that current guidance clearly envisages that BWV use should be the norm, there is a need for greater clarity as to the kind of situations where activation of BWV would be disproportionate.

56. Clearer guidance is also needed in regard to the use of BWV, both at the scene of an incident and from examination of footage after the event, in seeking statements from potential witnesses.

57. The MPS should arrange for data regarding the use of BWV to be collected and for regular reviews to take place of the impact of BWV on policing and on criminal justice outcomes.