

DATE SUBMITTED 11/24/20  
 SUBMITTED BY Sgt. Max Sheffield  
 DATE ACTION REQUIRED 12/02/20

COUNCIL ACTION (X)  
 PUBLIC HEARING REQUIRED ( )  
 RESOLUTION ( )  
 ORDINANCE 1<sup>ST</sup> READING ( )  
 ORDINANCE 2<sup>ND</sup> READING ( )  
 CITY CLERK'S INITIALS AB

**IMPERIAL CITY COUNCIL  
 AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: Imperial Police Department Policy  <p style="text-align: center;"><b>1. Approval to add Policy number 435- Body Worn Cameras to current IPD Policy</b></p>	
DEPARTMENT INVOLVED: Police Dept.	
BACKGROUND/SUMMARY:  The Imperial Police Department is requesting to add a Body Worn Camera Policy into its current Policy. With the arrival of our new BWC System, the Imperial Police Department needed to have a specific Policy for them before being deployed in the field. Lexipol along with IPD personnel have worked together to adopt the Police which is attached.	
FISCAL IMPACT: NONE	FINANCE INITIALS _____
STAFF RECOMMENDATION: Approve	DEPT. INITIALS <u>MSH/SL</u>
MANAGER'S RECOMMENDATION:  <p style="text-align: center;"><u>approve</u></p>	CITY MANAGER'S INITIALS <u>DKM</u>
MOTION:  SECONDED: APPROVED ( ) REJECTED ( ) AYES: DISAPPROVED ( ) DEFERRED ( ) NAYES: ABSENT: REFERRED TO:	

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## Body Worn Cameras

### 435.1 PURPOSE AND SCOPE

Agency Content
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The City of Imperial ("City") has identified a need to equip its sworn officers with body-worn cameras ("BWC") as part of its continuing effort to promote transparency, protect its members from frivolous claims and increase efficiency. This policy is intended to provide sworn officers with instructions and guidelines on when and how to use BWCs so contacts with the public can be recorded reliably and in accordance with the law. In the event of a conflict between any provision of this policy and a mandatory provision of any applicable law, the mandatory provision of the applicable law shall apply.

The Use of a recording system complements sworn officers in the performance of their duties by providing a digital record of enforcement and investigative field contacts. A recording of an event or contact also enables the delivery of timely, relevant and appropriate training to maximize safety for sworn officers and improve the provision of services to the community. These recordings will also protect sworn officers from false accusations and can be instrumental in resolving public complaints.

The video recordings captured by recording devices do not necessarily reflect the experience or state of mind of an individual sworn officer in a given incident. Moreover, video recordings have limitations and may depict events differently than the events recalled by the involved sworn officer(s). Specifically, it is understood the BWC may capture information that may not have been heard and/or observed by the involved sworn officer(s).

### 435.2 DEFINITIONS

Agency Content
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- (a) BWC - An acronym for body-worn camera, which is a camera worn on an individual member's person that records and stores audio and video.
- (b) Digital record - BWC files, including photographs, audio recordings and video footage, captured by a BWC and stored digitally.
- (c) Docking station - A multi-ported docking station installed in Sheriff's Office station. The docking station simultaneously recharges the BWC while uploading all digitally encrypted data from the device. The docking station then transfers the digitally encrypted data to the department's video storage system.
- (d) Metadata - complaint report numbers, deputy information and other descriptors used to identify digital records.
- (e) Evidentiary Data - Data of an incident or encounter that could prove useful for investigative purposes including, but not limited to, a crime, a detention, an arrest, a

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citation, a search, a use-of-force incident, or a confrontational encounter with a citizen(s).

- (f) System Administrator - An employee designated by the Chief of Police or, as applicable, responsible for the BWC system and the Video Storage System with full access to user rights, who also sets user access parameters.
- (g) Supervisor - Employee at the City with a rank of at least of at least sergeant within the Imperial Police Department.
- (h) Sworn Officer - A peace officer within the Police Department.
- (i) Video Storage System (VSS) - A digital record storage system that stores digitally encrypted data.

### **435.3 TRAINING**

#### **Agency Content**

City shall provide training in the use of BWC prior to issuance and deployment. The training shall include:

- (a) Training on operation (including when to activate and deactivate), maintenance and care.
- (b) Training on mandatory, discretionary and non-permissible uses of BWC.
- (c) Training on law pertaining to BWC.
- (d) Training as necessary to ensure continued effective use of BWC equipment, performance, and to incorporate changes, updates, and significant changes in the law or other revisions in policies and equipment.

### **435.4 GENERAL GUIDELINES**

#### **Agency Content**

- (a) All recorded media, images and audio from the BWC are property of City and shall not be copied, released, or disseminated in any form or manner outside the parameters of this policy or without the expressed written consent of the Chief, or his or her designee.
- (b) Sworn officers shall be aware of his or her surroundings when operating the BWC, and shall take privacy concerns into consideration, including inpatient care areas of a medical facility, hospital, rape treatment center, or other health care facilities where persons are receiving treatment. Sworn officers shall also demonstrate caution with regard to what the BWC video optic/lens is actively recording to ensure non-involved persons and documents that are confidential remain uncompromised, unless an enforcement action such as a crime in progress, a criminal investigation, or anticipating an encounter with an uncooperative person is taking place. Recording should resume when privacy is no longer at issue unless circumstances no longer fit the criteria for recording.

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- (c) Sworn officers must be authorized by the City to wear and/or use the BWC system.
- (d) Sworn officers shall position the camera on their uniform to facilitate optimum recording field of view. Uniformed sworn officers should wear the BWC in a conspicuous manner or otherwise notify persons that they are being recorded, whenever possible. Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. However, non-uniformed personnel shall use and wear the BWC system if engaged in pre-planned law enforcement activities such as serving a search warrant, or conducting a parole/probation search. 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.
- (e) Sworn officers will use only the BWC system issued and approved by City for official law enforcement duties. The wearing of any other personal video recorder for the same purpose is not authorized without permission of the Chief.
- (f) Many portable recorders, including BWCs and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.
- (g) Sworn officers are not required to obtain consent from a private person when:
  - 1. They are in a public place; and/or
  - 2. They are in a location where there is no reasonable expectation of privacy (e.g. inside a building or dwelling where the sworn officer is lawfully present and engaged in the performance of official duties).

### 435.5 ACTIVATION GUIDELINES

#### Agency Content

- (a) Unless a specific exception applies, uniformed sworn officers are required to activate the BWC prior to or in any of the following:
  - 1. All enforcement and investigative contacts.
  - 2. All contacts specifically related to a call for service.
  - 3. Any contact that becomes adversarial in nature.
- (b) Unless a specific exception applies, non-uniformed sworn officers are required to activate the BWC prior to or in any of the following:
  - 1. All pre-planned enforcement activity (e.g. search warrant service, suspect apprehensions, etc.)
- (c) In addition to the required conditions, sworn officers may activate the system any time they feel its use would be appropriate and/or valuable to document an incident.
- (d) Sworn officers may terminate the recording after an encounter is completed.

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- (e) Sworn officers are encouraged to advise private persons they are recording if the advisement may gain compliance, assist in the investigation, and not interfere with the investigation or sworn officer safety.

#### 435.5.1 EXCEPTIONS TO REQUIRED ACTIVATION OF THE BWC

##### Agency Content

Sworn officers are not required to activate and record encounters with the public when:

- (a) Activation of the BWC is unsafe or impractical in that it jeopardizes the safety of an individual.
- (b) Mechanical issues impede the activation of the BWC.
- (c) A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational.
- (d) Recording would risk the safety of a confidential informant or investigative technique preserved (as authorized by California Evidence Code sections 1040, 1041, and 1042), citizen informant, or undercover officer.
- (e) Recording will jeopardize the privacy of an individual in an inpatient care area of a medical facility, hospital, rape treatment center, or other healthcare facility where persons are receiving treatment. However, such recording may be appropriate if responding to an emergency, crime in progress, or other circumstance which takes precedence over elevated privacy concerns.
- (f) A recording would interfere with his/her ability to conduct an investigation due to sensitive circumstances (i.e.: body cavity search, nudeness, a victim of rape, incest or other form of sexual assault).
- (g) Recording would jeopardize confidential discussions.
- (h) Recording would jeopardize the tactics of the Imperial Police Department.

#### 435.5.2 DEACTIVATION OF THE BWC

##### Agency Content

Once activated, the BWC shall remain on continuously unless deactivated for one of the following reasons:

- (a) The sworn officer's direct participation in the incident is complete, or the situation no longer fits the criteria for activation.
- (b) In the event of an arrest, upon entry into the sally port of the Imperial County Jail.
- (c) In the event of an extended event such as traffic control or an accident scene, to conserve recording time.
- (d) The sworn officer believes recording at a hospital or healthcare facility may compromise patient confidentiality. However, such recording may be appropriate if responding to an emergency, crime in progress, or other circumstance which takes precedence over elevated privacy concerns (Penal Code section 636).

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- (e) Interviewing a confidential informant for the purpose of intelligence gathering.
- (f) The sworn officer is exchanging or discussing administrative, tactical, or law enforcement sensitive information.
- (g) The use of the BWC causes emotional distress to the victim of a crime, resulting in the refusal to provide a statement.
- (h) Upon the lawful and proper order of a supervisor.

When a deactivation occurs prior to the event having been concluded, sworn officers shall orally document the reason(s) for deactivating while the BWC is still recording. If a sworn officer is unable to orally document the reason(s) for deactivation when deactivation occurs because such action would be unsafe or impractical, then the sworn officer may document the reason(s) for deactivation in their report.

### **435.6 PRIVACY EXPECTATIONS**

**Agency Content**

All recordings made by sworn officers acting in their official capacity shall remain the property of City regardless of whether those recordings were made with department-issued or personally owned recorders. Sworn officers shall have no expectation of privacy or ownership interest in the content of any BWC recording.

### **435.7 RESPONSIBILITIES**

**Agency Content**

The following covers the responsibilities of City sworn officers in regards to BWC:

#### **435.7.1 SYSTEM ADMINISTRATOR**

**Agency Content**

The System Administrator is designated by the Chief, as applicable. Oversight responsibilities include, but are not limited to, the following:

- (a) Operation and user administration of the system.
- (b) System evaluation.
- (c) Training.
- (d) Policy and procedure review and evaluation.
- (e) Coordination with Information Technology regarding system-related issues.
- (f) Securing and retaining files of evidentiary value.
- (g) Documenting system malfunctions and/or failures related to the BWC.

#### **435.7.2 SUPERVISORS**

**Agency Content**

Supervisors overseeing the use of BWCs shall be responsible for the following:

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- (a) Ensure sworn officers utilize the BWC according to policy guidelines.
- (b) Ensure videos related to critical incidents are uploaded.
- (c) Review recordings in order to develop intelligence, resolve public complaints or as directed by the Sheriff and/or his designee, as applicable.
- (d) Monitor system effectiveness and make recommendations for operational improvements and policy revision.
- (e) Report unresolved reported problems to the system Administrator in a timely manner.

### 435.7.3 SWORN MEMBERS

#### Agency Content

Sworn officers utilizing BWCs shall be responsible for the following:

- (a) Ensure BWCs are fully functional and operating properly prior to going into service.
- (b) Immediately report unresolved equipment malfunctions and/or problems to their supervisor.
- (c) Document the use of a BWC on one of the following:
  - 1. On the investigative report/mobile digital computer entry.
  - 2. As a notation on a citation.
  - 3. On a field interview card.
- (d) Properly store and secure the BWC when it is not in use.
- (e) Continue to prepare reports in the same manner as prior to the implementation and use of the BWC system. Sworn officers should not substitute "refer to video" for a detailed and thorough report. Sworn officers should avoid using exact quotes, but should represent statements in their reports as a summary of what is contained in the statement/video, such as, "In summary the victim related...."

### 435.7.4 VIOLATIONS

#### Agency Content

- (a) Sworn officers shall not intentionally use the BWC recording functions to record any personal conversation of or between another department member or sworn officer without the recorded members/sworn officer's knowledge or permission. Penal Code section 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential. Penal Code section 633 provides an exception for law enforcement if the surreptitious recording occurs during the course of a criminal investigation. Accordingly, this prohibition does not apply to any criminal investigation involving City sworn officers.

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- (b) It shall be deemed a violation of this policy for a supervisor to review recordings for the sole purpose of searching for violations of policy or law where there is no prior indication, suspicion or notice of a complaint or incident that warrants such review.

Sworn officers reviewing recordings should remain focused on the incident or incidents in question and review only those recordings relevant to their investigative scope. If improper conduct is discovered during any review of digital records, the person who discovered the conduct in question shall notify a supervisor as soon as practicable.

- (c) Minor infractions discovered during routine review of the recorded material should be viewed as training opportunities and not as routine disciplinary actions. Should the behavior or action be repetitive after being addressed by a supervisor, the appropriate disciplinary or corrective action should be pursued. Notwithstanding the foregoing, failure to activate the device when required under this policy or the intentional termination of a recording in violation of this policy may be subject to disciplinary actions.

### **435.8 TASK FORCES AND OUTSIDE AGENCY ASSIGNMENTS**

#### **Agency Content**

City has employees who participate in numerous outside agency assignments and task forces where the use of a BWC might conflict with the rules, regulations, policies or practices of the task force or outside agency. In some instances, the use of recording devices of any kind may be prohibited. Sworn officers will be notified of any conflicts prior to participating with outside agencies. Any discussions or agreements with outside agencies regarding the use of the BWC shall only take place through the Chief or his or her designee.

### **435.9 UNAUTHORIZED USE OF EQUIPMENT**

#### **Agency Content**

- (a) Unauthorized use, duplication, and/or distribution of video files for any purpose is prohibited
- (b) Providing or receiving unauthorized access to video files, either through the provision of passwords or viewing video files in person, is prohibited.
- (c) Sworn officers are prohibited from using a recording device such as a phone camera or secondary video camera as an alternative to the BWC equipment provided by City. However, this does not preclude the use of other City-issued equipment, with the prior approval of a Supervisor, for specific investigation purposes.
- (d) The BWC shall not be used to record non-work related activity.
- (e) Sworn officers shall not remove, dismantle or tamper with any hardware and/or software component or part of the BWC.

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#### **435.10 FILE MAINTENANCE**

##### **Agency Content**

- (a) Once video of evidentiary value is captured, sworn officers shall identify files by:
  - 1. When assigned, noting the complaint report number in the video file.
  - 2. Entering a title. The title should include sufficient information to identify the file, such as crime code, suspect name, location, event, etc.
  - 3. Selecting the appropriate category(ies).
  - 4. The information may be entered via hand held device, MDC, or City computer work station.
- (b) All sworn officers shall dock the BWC for automated upload of data files daily at the end of their shift at the docking station to ensure storage capacity is not exceeded and/or to view uploaded audio/video.
- (c) Sworn officers should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Sworn officers should include the reason for deactivation.
- (d) Recordings related to criminal charges shall be treated the same as other forms of direct evidence which must be provided to the prosecution and are subject to discovery and disclosure in accordance with law. Prosecuting agencies shall be made aware of the existence of recordings when they pertain to any criminal case so they can comply with their discovery obligations.

#### **435.10.1 REVIEW OF FILES**

##### **Agency Content**

- (a) All access to the video management system is logged and subject to the audit provisions of section 10.3 of this policy at any time. Access to data from the system is permitted on a right to know/need to know basis. Employees authorized under this policy may review video according to the provisions of this policy.
- (b) Data captured by the BWC is not considered criminal offender record information ("CORI"), but it shall be treated in the same manner as CORI data.
- (c) Recordings may be reviewed in any of the following situations:
  - 1. By a sworn officer, of his/her own video, for use when preparing reports or statements, and prior to courtroom testimony or for courtroom presentation, subject to the limitations set forth in section 10.4(d) of this policy.
  - 2. By a supervisor investigating a specific act of conduct.
  - 3. By a supervisor to assess sworn officer performance (videos shall not be intentionally reviewed solely for the purpose of seeking discipline).

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4. By the System Administrator, or his or her designee, to assess proper functioning of the BWC system.
  5. By department investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation.
  6. By a sworn officer, of another sworn officer's recording, upon approval by a Supervisor, who requests to review recordings for a legitimate law enforcement purpose.
  7. By court personnel through proper process or with permission of the Chief, or their designee.
  8. By the Chief, or his or her designee, to assess possible training value.
  9. By a sworn officer for training purposes, subject to the provisions of section 10. 4(e) of this policy.
  10. Pursuant to lawful process, by those who are authorized to review evidence in a related case.
  11. By field training personnel for the purpose of reviewing a sworn officer's performance while their employment is classified as probationary.
- (d) When safe and practical, an on-scene supervisor may retrieve the BWC from an involved sworn officer at the scene of the critical incident. In such cases, the Supervisor shall be responsible for ensuring the BWC is docked and uploaded into the VSS, as well as ensuring that the sworn officer is provided with a replacement BWC.
- (e) Following a time sensitive critical incident (such as an officer involved shooting, in custody death, or the serious injury or death of a sworn officer), a video may only be viewed prior to being uploaded into the VSS when exigent circumstances occur, such as a sworn officer being injured and to obtain identifying suspect information or other pertinent information.
- (f) It is NOT the intent of City to review digital records for the purpose of general performance review, for routine preparation of performance reports, or to discover policy violations. However, City has discretion to reference and/or utilize BWC recordings within performance reports or as a basis for corroborating policy violations.

### 435.10.2 ACCESS OF FILES

#### Agency Content

For official use, the centralized server shall only be accessed from City-authorized computers, Police Department workstations or MDCs.

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- (a) Exception: Administrative users of BWC system software are allowed access to files from a computer or device outside of the Police Department for the purpose of completing administrative tasks, such as locking or unlocking users, etc.

#### 435.10.3 SUBSECTION TITLE

##### **Agency Content**

For the purpose of ensuring law enforcement incidents are being recorded per this policy, a Supervisor or administrator has the ability to periodically audit the system to determine usage. Access to BWC files, deletion of files, sharing and redactions of files will be documented via an audit trail. The audit trail shall be maintained permanently.

#### 435.10.4 SUBSECTION TITLE

##### **Agency Content**

- (a) Departmental Requests- Any request shall be completed by the System Administrator with the approval of the Chief, or his or her designee, as applicable.
- (b) Non-Department Requests- All other requests for BWC file shall be processed in accordance with Federal, State and local statutes and any departmental policies such as in Imperial Police Department Policy sections 808.5 and 346. If a recording is to be released to a member of the public as required by law, County shall give the sworn officer whose recording is being produced seventy-two hours notice of the release of the recording.
- (c) Request for Deletion of Accidental Recording- An "accidental recording" is any recording that 1) contains video of events not required to be recorded pursuant to this policy and 2) is made either by unintentionally activating the BWC or by failing to correctly deactivate the BWC. The following steps shall be followed for making a request for deletion of an accidental recording:
  - 1. In the event of an accidental recording where the resulting recording is of no investigative or evidentiary value, the recording officer may request the file be deleted by submitting a written request via their chain of command. The request must contain sufficient information to locate the file.
  - 2. The Chief or their designee, shall consider the written request. Consideration of the request for deletion shall include a review the recording, file, and written request. Unless staff is unavailable, the individual performing the review shall be of the same gender as the recording officer.
  - 3. The Chief of Police or their designee may approve or deny the request and such determination is non-appealable.
    - (a) If the request is denied the recording deputy shall be informed of the decision.
    - (b) If the request is approved, it shall be forwarded to the System Administrator for action.

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- (c) A written record of the person authorizing each deletion shall be maintained.
- (d) Copying Procedures
  - 1. A copy of the file may be made shared by the involved sworn officer via evidence.com by the involved sworn officer in accordance with the provisions of this order for evidence, District Attorney request, etc. Copies should only be made shared by a sworn officer upon express consent by the Chief, or his or her designee.
  - 2. If the video is in fact evidence to a case, the sworn officer shall make send a copy of the video(s), and book the copy into VeriPic to the District Attorney's Office.
  - 3. Other than as provided in this policy, no member of City shall download any video from the VSS onto any computer, device, drive, CD, DVD or any other format without the express consent of the Chief.
- (e) Investigators conducting criminal or internal investigations shall:
  - 1. Advise the System Administrator to restrict access to recordings to 1) a sworn officer being criminally investigated for matters related to or contained in the recording and/or 2) public disclosure of the file in criminal or internal investigations, when deemed necessary by the investigator. Any restriction pursuant to this section shall not supersede access available to sworn officers pursuant to section 10.1 (c)(1) and such access shall be limited to the express purposes of section 10.1(c) (1).
  - 2. Document the reason for access by entering the related case report or internal affairs case number on the file field prior to viewing.
  - 3. Review the file to determine whether the file is of evidentiary value and process in accordance with established procedures.
  - 4. Investigators shall notify the System Administrator to remove the access restriction when the investigation is closed.
- (f) BWC files may be utilized as a training tool for individuals, specific units, and the Imperial Police Department as a whole. A recommendation to utilize a file for such purpose may come from any source. A person recommending utilization of BWC files for training purposes shall submit the recommendation through the chain of command to the Chief, or his or her designee. The Chief shall make the final determination regarding the utilization of BWC for training purposes. If a file is to be used for training purposes, the involved sworn officer(s) shall be notified at least five (5) days prior to the use of any video for training. If the involved sworn officer objects to the showing of a recording, the objection shall be submitted to the Chief, to determine if the training value outweighs the sworn officer's objection for not showing the recording. The Chief's decision is final. In no event shall any recording be used for the purpose of ridicule or embarrassing a sworn officer.

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#### **435.11 RETENTION REQUIREMENTS**

##### **Agency Content**

All data shall be retained for a minimum of two years, after which time it may be erased. All non evidentiary data, except that data governed by section 10.4(c) of this policy, shall be retained for a minimum of one year, after which time it may be erased. City may, in its discretion, retain any video media for any period of time exceeding the minimum periods. All policies utilized by City shall be in accordance with Penal Code section 832.18. Any video media booked as evidence shall be labeled and stored per policy guidelines and/or applicable law or regulation. Records or logs of access and deletion of data from BWCs shall be retained permanently.

#### **435.12 MAINTENANCE PROCEDURE**

##### **Agency Content**

- (a) Sworn officers shall immediately report any recognized problems with the BWC to their immediate supervisor.
- (b) Upon notification, the immediate supervisor shall contact the System Administrator or designee via the help desk stating the problem or malfunction.
- (c) The System Administrator or designee shall report unresolved deficiencies to the Taser International/Axon customer service team.
- (d) No maintenance other than charging, switching of body mounts, downloading/uploading, routine wiping or dusting of debris from the BWC shall be performed by County unless authorized by the Systems Administrator or designee.

#### **435.13 SECTION TITLE**

##### **Agency Content**

- a. Sworn Officers shall immediately report a lost BWC to their supervisor and to the BWC System Administrator.
- b. Sworn Officers shall complete a lost property report and contact the BWC System Administrator to obtain a replacement BWC.