



STATUTORY INSTRUMENTS.

S.I. No. 216 of 2024

GARDA SÍOCHÁNA (RECORDING DEVICES) ACT 2023 (CODE OF
PRACTICE) ORDER 2024

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WHEREAS the Commissioner of the Garda Síochána has, under section 47(1) of the Garda Síochána (Recording Devices) Act 2023 (No. 32 of 2023) (“the Act of 2023”) and having had regard to the matters contained in Part 2 of that Act, prepared a draft code of practice on the operation of body worn cameras by the Garda Síochána under the said Part 2, the processing of data (including personal data) obtained as a result of that operation, and related matters.

WHEREAS the Commissioner of the Garda Síochána has, in relation to the said draft code of practice, complied with subsections (2) and (3) of section 47 of the Act of 2023;

AND WHEREAS the Commissioner of the Garda Síochána has, in accordance with section 47(1) of the Act of 2023, submitted the said draft code of practice to the Minister for Justice;

NOW I, HELEN MCENTEE, Minister for Justice, in exercise of the powers conferred on me by section 47(4) of the Garda Síochána (Recording Devices) Act 2023 (No. 32 of 2023), hereby order as follows:

1. This Order may be cited as the Garda Síochána (Recording Devices) Act 2023 (Code of Practice) Order 2024.
2. It is declared that the code of practice set out in the Schedule is a code of practice for the purposes of the Garda Síochána (Recording Devices) Act 2023 (No. 32 of 2023).
3. The code of practice set out in the Schedule shall come into operation on 15 May 2024.

SCHEDULE



An Garda Síochána

Code of Practice

Body Worn Cameras - Proof of Concept

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Overview

1.1 Introduction

This Code of Practice (COP) is in accordance with Part 2 of the Garda Síochána (Recording Devices) Act 2023 (also referred to as “the Act”) and pertains solely to the operation of Body Worn Cameras (BWCs) by An Garda Síochána as part of a Proof of Concept (POC) exercise in five stations within the DMR North Central, DMR South Central, Limerick and Waterford Garda Divisions. Upon completion of the POC, the COP will be reviewed and revised to reflect the learning arising from the POC, and an updated COP will issue to support the national implementation of BWCs.

The appropriate operation of BWCs, and the audio / images / data captured by BWCs, can assist with preventing, investigating, detecting or prosecuting criminal offences; securing public order and public safety including the safety of Garda personnel; or safeguarding against, and the prevention of, threats to public security. This COP sets out An Garda Síochána’s policy on the operation of BWCs, designed to record both audio and video information for specified purposes.

This COP sets out that BWCs must be operated fairly, responsibly, with respect for the rights of others, without unlawful discrimination and as is necessary for a policing purpose in accordance with the Act and this COP while minimising interference with the rights of others to the least extent possible. The fundamental principle underpinning this COP is that any action taken must comply with the fundamental principles of legality, necessity, proportionality, and accountability and is applied in a non-discriminatory manner in accordance with the principles of the Constitution of Ireland 1937 and the European Convention on Human Rights.

1.2 Aims and Objectives

Due to the construct of Part 2 of the Act, this COP establishes Garda policy for the deployment and operation of BWCs by An Garda Síochána.

This COP is designed to provide further detail on the operation of BWCs described in the Act and associated procedures for Garda personnel, including the handling, storage, retrieval, review, onward transmission, and destruction digital recordings.

BWCs are an important tool for gathering objective evidence, which contributes to the effective investigation of crime and vindicating the rights of individuals concerned, including the public and Garda personnel.

1.3 Legal Context (Scope and Application)

While this COP pertains solely to An Garda Síochána’s POC exercise in the operation of BWCs and the handling of digital evidence, the COP applies to all Garda personnel. The Legal basis for operating BWCs is provided for in Part 2 the Act. This COP is prepared under section 47 of the Act and provides further detail on the operation of BWCs and associated procedures to be followed by Garda personnel in the operation of BWCs. The COP includes provisions relating to the processing of data, gathered as a result of the operation of BWC’s, in accordance with Data Protection legislation. Recordings and images

on BWCs may be admissible in evidence in criminal, civil and disciplinary proceedings in accordance with section 48 of the Act.

1.4 Relevant Terms & Definitions

Technical terms and abbreviations which are used throughout this document are defined in this section to provide a common understanding by way of further detail in relation to the operation of Part 2 of the Act and this COP.

Term	Definition
Body Worn Camera (BWC)	As defined in section 2 of the Act, means a recording device affixed to or contained in: <ol style="list-style-type: none"> a) clothing, or b) a uniform, or c) headgear (including helmet) or d) worn by an animal controlled by Garda personnel
Buffer	BWC will operate a rolling buffer in standby-by mode. When recording mode is activated, the BWC will add a period of seconds from the buffer to the start of the recording.
Code of Practice (COP)	As defined in section 2 of the Act, means a Code of Practice approved by the Minister by order under Part 8 and includes part of a Code of Practice.
Data Controller	In relation to the operation of Part 2 of the Act and this COP, the Data Controller is any person who decides the purposes for which and how personal data is processed. The Commissioner of An Garda Síochána is the data controller for any personal data, which is captured on BWCs administered by Garda personnel. However reference to “controller” in this COP is a reference to the relevant Garda personnel within the organisation to whom the Commissioner has delegated controller duties in respect of the personal data covered by this COP.
Digital Evidence Management System (DEMS)	This is a software-based solution that enables an organisation to secure, store, retrieve and manage all of their digital evidence throughout its lifecycle; and provide appropriate audit and controls to ensure data is handled in line with agreed policies.
Document	As defined in section 2 of the Act, means any of the following: <ol style="list-style-type: none"> a) a book, record or other written or printed material, b) a photograph, c) any information stored, maintained, or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in legible form, and any audio or video recording.

Term	Definition
Legitimate Policing Purpose	Legitimate policing purposes for operating a BWC are provided for in the Act (section 9) and are set out at Section 2.1.1 of this COP.
Garda Personnel	<p>As defined in section 2 of the Act, a member of Garda personnel means:</p> <ul style="list-style-type: none"> • a member of the Garda Síochána, or • a member of the civilian staff of the Garda Síochána who was appointed under, or designated by order under, the Garda Síochána Act 2005 Policing, or the Policing, Security and Community Safety Act 2024.
Media Storage device	<p>In relation to the operation of Part 2 of the Act and this COP, Media Storage Device refers to any device on which media is or can be stored or transported.</p> <p>Note: this is distinct from ‘Removable media’ in the sense that a ‘media storage device’ as defined in this term maybe removable or irremovable.</p>
Member of An Garda Síochána	As defined in section 2 of the Act, means a member within the meaning of section 3(1) of the Garda Síochána Act 2005 or section 2(1) of the Policing, Security and Community Safety Act 2024.
Minister	As defined in section 2 of the Act, means the Minister for Justice.
Original Archive Master Copy (or Master)	In relation to the operation of Part 2 of the Act and this COP, this is an original recording, or digital image from which copies can be made (working copies).
Original Working Copy	In relation to the operation of Part 2 of the Act and this COP, this is an audio-visual recording derived from the Original Archive Master for the purpose of editing or preparation for investigation and presentation in court. The Working Copy may be altered from its Original Master such as changing the file format, orientation, size, cropping, redaction, adjusting brightness, etc.
Personal Data	<p>As defined in section 2 of the Act, means information relating to:</p> <ul style="list-style-type: none"> • an identified living individual, or • a living individual who can be identified from the data, directly or indirectly, in particular by reference to: <ul style="list-style-type: none"> ▪ an identifier such as a name, an identification number, location data or an online identifier, or ▪ one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or

Term	Definition
	social identity of the individual.
Public Place	As defined in section 2 of the Act, means a place to which the public have or are permitted access, whether as of right or by express or implied permission and whether subject to or free of charge.
Recording Device	<p>As defined in section 2 of the Act:</p> <p>(a) means a device or system that is capable of creating a record in any medium from which visual images (including moving visual images) or sounds, or both, may, by any means, be reproduced,</p> <p>(b) includes any devices or systems that are capable of processing the record made under paragraph (a), which may include—</p> <ol style="list-style-type: none"> i. reproducing by any means the visual images (including moving visual images) or sounds concerned, ii. using ANPR in respect of the record, or iii. producing a document relating to the record or the processing concerned, and <p>(c) includes any device or system referred to in paragraph (a) or (b) that is in or affixed to a vehicle or a structure.</p> <p>Note that this COP does not apply to the use of recording devices other than BWCs.</p>
Removable Media	In relation to the operation of Part 2 of the Act and this COP, typically data storage devices (such as CD-ROM, DVD, Memory pen-drive, or portable hard drive) capable of being removed from a computer system without powering off the system for the express purpose of copying and transporting digital files (Recordings or photos).
Working Practice	In relation to the operation of Part 2 of the Act and this COP, refers to the execution of specific tasks or duties in relation to Garda personnel job description, for example, entering or updating an incident in PULSE.

1.5 Guiding Principles

BWCs must be operated fairly, responsibly, with respect for the rights of others, without unlawful discrimination and as is necessary for a legitimate policing purpose in accordance with the Act and this COP while minimising interference with the rights of others to the least extent possible. The following key primary principles have been developed to guide the visible operation of BWCs:

- Prior to operating BWCs, consideration must always be given to balancing the potential impact on individuals and their privacy against the duty on An Garda Síochána to seek out and preserve all evidence that has a bearing or a potential bearing on the issue of guilt or innocence.

This right to privacy is not an unqualified right. Its exercise may be restricted by the constitutional rights of others, including a right to a fair trial, by the requirement of the common good and is subject to the requirements of public order;

- Garda personnel will be trained in the operation of BWCs prior to their use, and operate BWCs in accordance with the law and manufacturer's instructions;
- The operation of BWCs does not replace conventional forms of evidence gathering, (such as collation of physical evidence, written statements and interviews), it supports and enhances them. Garda personnel must continue to follow current practices and procedures for achieving best evidence;
- Recordings and images will be captured via BWCs for a legitimate policing purpose in accordance with the Act, (section 9) and the COP. Such recordings and images may be admissible in evidence in criminal, civil and disciplinary proceedings in accordance with section 48 of the Act;
- All recordings and imagery that is viewed, stored, processed, and shared from any BWC will be subject to applicable data protection legislation;
- The operation of BWCs will be incident specific. Decision making will be guided by the Garda Decision Making Model (GDMM), when to operate BWCs, in accordance with the provisions of the Act and the COP and in support of the duty to seek out and preserve all evidence that has a bearing or a potential bearing on the issue of guilt or innocence while at all times minimising interference with the rights of others to the least extent possible.

1.6 The Garda Decision Making Model

The Garda Decision Making Model (GDMM) applies to all decisions made by Garda personnel, from spontaneous incidents to planned operations, daily duties to strategic planning.

The GDMM is an integrated tool to assess risk at the earliest stages of decision making. In addition, it ensures consistency of decision making even in the most dynamic circumstances. As such, the GDMM should be used to support all personnel to make effective decisions in relation to the operation of BWCs.

All Garda personnel will receive the full support of the Garda organisation in all instances where they can demonstrate that their decisions were assessed and managed in line with the GDMM.

Where there may be situations which are not explicitly covered in this COP, Garda personnel should use the GDMM to inform their actions and decisions with respect to the use of BWCs. The GDMM is graphically represented below:



Figure 1: Garda Decision Making Model (GDMM)

2 Body Worn Cameras

2.1 Overview

Legislative provision for the operation of BWCs is provided for in Part 2 the Act. In accordance with section 47 of the Act, this COP provides further detail on the operation of BWCs and associated procedures for Garda personnel as part of the POC exercise within the DMR North Central, DMR South Central, Limerick and Waterford Garda Divisions. Upon completion of the POC, the COP will be reviewed and revised to reflect the learning arising from the POC and an updated COP will issue to support the national implementation of BWCs.

Under Part 2 of the Act, Garda personnel acting in the course of their duties may operate BWCs in:

- a public place, or
- any other place:
 - o under a power of entry authorised by law;
 - o to which he or she was expressly or impliedly invited or permitted to be, or
 - o in which he or she is present for the purposes of the performance of his or her functions as such a member.

Part 2 of the Act also makes provision that a BWC may be worn on an animal controlled by a member of Garda personnel.

The Act requires that:

- BWCs shall only be used for overt recording (in so far as practicable);
- BWCs must be visible on the clothing, uniform or headgear on which it is located (including, where relevant on the clothing, uniform, or headgear of an animal);
- BWCs must have a functioning and visible indicator showing when they are being operated.

In particular, BWCs:

- will not be used for general surveillance;
- do not replace the written note;
- recordings must be uploaded as soon as possible;
- should never be used for the sole purpose of identifying a person;
- shall never be used to seek to restrict the right of peaceful protest;
- should record the totality of an interaction subject to the guidance set out in section 2.6 of this COP while at all times minimising interference with the rights of others to the least extent possible.

2.1.1 Rationale for BWC recordings

The Act provides four principal purposes under which a BWC may be operated:

- the prevention, investigation, detection or prosecution of criminal offences;
- safeguarding against, and the prevention of, threats to public security, including securing public safety and public order;
- the protection of the security of the State;
- the execution of criminal penalties.

These principal purposes underpin the operation of BWCs during the POC.

Without prejudice to the principal purposes, BWCs may be operated by Garda personnel where they:

- believe on reasonable grounds that an offence has been, is being, or will be committed,
 - believe on reasonable grounds that he or she may be required to exercise force to fulfil his or her duties,
 - is executing a court order or a warrant,
 - is recording damage to property as a result of an offence or an act of violence or force,
 - is recording an individual where:
 - o the member believes on reasonable grounds that the immediate making of a record by the individual is necessary and the individual is unable to write,
 - o the member believes on reasonable grounds that the individual is dying and that he or she had been a victim of, or a witness to, an offence,
 - o the member believes on reasonable grounds that domestic violence is occurring or may have occurred,
 - o the member believes on reasonable grounds that a breach of the peace or a public order offence is occurring or may have occurred,
 - o the recording is of injuries to the individual that the member believes on reasonable grounds were sustained as a result of an offence or of an act of violence or force,
- or
- considers on reasonable grounds that it is required for the performance of his or her functions.

The operation of BWCs shall be necessary and proportionate with regard to the purposes as set out above, and will be so presumed if the operation of the BWC is in accordance with this COP.

2.2 Roles & Responsibilities

Garda personnel operating BWCs shall familiarise themselves with this COP. In addition, Garda personnel operating BWC shall:

- ensure they have completed all relevant training prior to utilising a BWC;
- connect/dock a BWC to the Garda network to ensure the device receives any required software updates;
- when using a pool BWC:
 - o on receipt of the BWC confirm the device is fully operational and has a sufficiently charged battery for the entirety of a shift/tour of duty;
 - o ensure BWCs are docked appropriately, when not in use, and made available for other Garda personnel to use;
- when using a personal issue BWC:
 - o confirm the device is fully operational and has a sufficiently charged battery for the entirety of a shift/tour of duty;
- wear it when deployed operationally unless otherwise directed by their supervisor/managers (e.g. Section 2.6.13 Sensitive Operations);
- take responsibility for what they have decided to record or not record in accordance with the GDMM, noting the reasons for recording or not recording, while taking cognisance of the guidance set out in section 2.6 of the COP, as they may have to justify their decision making during any subsequent court or other investigative proceedings;
- Report any damaged, lost or stolen BWCs as soon as possible.
- Review and “Tag” the BWC video as soon as possible when the data is available on the DEMS. Tagging of data can mean:
 - o adding PULSE IDs
 - o adding a CAD (Garda SAFE) ID
 - o Linking to a Garda Case File (IMS)
 - o Adding a Fixed Penalty Notice Ticket ID
 - o Adding a Category – Traffic Stop, Drugs Search, etc.
 - o Determining if the data is non-evidential if none of the above Tags are appropriate.
 - o Adding Notes to the video for supervisory review if appropriate.
- Garda personnel will only operate official issued BWCs. The use of personal BWCs/recording devices to record footage is prohibited.

It is the responsibility of Garda personnel to capture the best possible information, operating a BWC as is necessary and proportionate with regard to the purposes under the Act, which are set out at Section 2.1.1 of this COP, and such operating is in accordance with this COP.

2.3 Capture of information

Providing the capability to record interactions and observations at scenes of potential incidents, the operation of BWCs enhances the ability of Garda personnel to accurately gather and record information.

BWC recordings can support Garda personnel's written records of events and provide a visual and audio perspective, where traditionally a notebook was relied on to record key information, when dealing with a member of the public or capturing initial information at an incident.

The capture of the video tags is as important as the BWC recording. The Tag is a way of beginning the evidence trail immediately, where the Tag can help Garda personnel to categorise and review their video.

2.4 Respect for Human Rights

It is the responsibility of Garda personnel to ensure that their operation of a BWC is only for a legitimate policing purpose. Garda personnel will be aware that the operation of a BWC principally engages the right to privacy and/or the right to a fair trial. As such, the operation of a BWC shall only take place as is necessary and proportionate with regard to the purposes under the Act, which are set out at section 2.1.1 of this COP, and such operating is in accordance with this COP. Decisions in this respect will be guided by the GDMM and the Garda Human Rights Framework.

To further ensure respect for and protection of human rights, a Human Rights Impact Assessment of the impact of the COP on the human rights of individuals affected by this COP, has been carried out in accordance with Part 8 of the Act.

2.5 Digital Evidence Management System (DEMS)

A Digital Evidence Management System (DEMS) is used to securely manage footage from BWCs operated by Garda personnel.

2.5.1 Use of the DEMS

Once BWC footage is uploaded into the DEMS, the Garda personnel who made the recording must decide whether it will be required for evidential or other policing purposes or if any footage taken is non-evidential. The date of upload will be recorded on the DEMS for each file uploaded. All content from a BWC will be uploaded automatically to the system and will be tagged appropriately:

- Non-evidential content will automatically have the following metadata associated: Recording Time, Date, and Location; User ID; and camera asset tag.
- Evidential content will in addition to the automatically applied metadata (Recording Time, Date, and Location; User ID; and camera asset tag), have the recording Garda personnel identify the evidential file and update the record with additional information such as the PULSE incident number and additional supporting information.

The processes governing the uploading of BWC footage into the DEMS will be set out in the relevant Garda procedure document.

The DEMS supports the management of recordings over its lifecycle from upload to destruction; providing an audit function to ensure transparency and the preservation of the evidence chain.

Audio or visual edits, (including but not limited to redaction or clipping) will be completed in the DEMS by trained users. It is anticipated that all Garda personnel will be trained to use the update functions on the DEMS platform. However, 'Super Users' will be identified within Units / Sections. Super Users are expected to have a comprehensive understanding of how to use the DEMS platform, and to support colleagues in their use of the platform.

As soon as a file is uploaded it becomes the original 'master' copy of the video/image and is stored by the system and cannot be edited or updated, it will always be linked to any copies or edited versions of the original. All updates must be made to a 'working copy' of video/image files, which have been uploaded.

Required updates or edits to footage may include:

- Annotation of a sequence of events;
- Application of captions;
- Redaction of sensitive or restricted information (e.g. obscuring the faces of third parties);
- Clipping of footage to include only the sequence of events relevant to an investigation;
- Transcription of Audio;
- Tagging of files;
- Every single interaction with the video file will create a transaction in the Audit log.

Garda personnel will have the ability to redact footage of a working copy, which will be linked to the original master copy, in accordance with data protection legislation in order that only footage which is evidentially relevant to a case can be prepared for court or other authorised viewing. The release of footage to the DPP, Courts, GSOC/ OPO, or where otherwise required by law is managed by the DEMS and must be approved by a supervisor of appropriate rank. Footage intended for court is to be included in the book of evidence/court file and is subject to the same protections as are afforded to the book of evidence/court file.

2.5.2 Upload of footage

To prevent loss or accidental destruction of recordings, all footage from a BWC must be uploaded into the DEMS at the earliest opportunity. Once recordings have been automatically uploaded, a BWC is cleared of all footage and ready to be used again.

BWCs should not be interfered with or connected to any unauthorised ICT equipment. Any attempt to interfere with the recordings or move data direct from a BWC is a breach of Part 2 of the Garda Síochána (Recording Devices) Act 2023.

2.5.3 Data retention

In the event, an individual convicted in the courts undertakes appeal or miscarriage of justice proceedings, the image/recording evidence must be retained on conviction. The circumstances of their retention should ensure that their integrity is maintained in the event of appeals, potential civil claims and or retrials.

Recordings are subject to the retention periods and policies set out under section 2.9 ‘Data Use & Processing’. When footage is uploaded to the DEMS, if it has been tagged as non-evidential, the destruction after an agreed period (31 days) is automatic, requiring no input from Garda personnel. At any time in the 31 days Garda personnel or their supervisor can review and change their “non-evidential” decision, and then the data will not be scheduled for destruction.

2.5.4 Data Transfer

Data transfer from BWCs to the DEMS must be completed at the earliest opportunity – this is achieved by docking the device in a BWC docking station.

BWC footage should not be transferred via removable media (e.g. DVD, Memory stick, etc.) and should be shared via appropriate DEMS Portal links providing an audit trail of all actions and activities relating to the data.

Sharing of footage must be done in accordance with the approval from the applicable Chief Superintendent/Superintendent. Once approval has been granted, the partner agency should be made aware that they are responsible for appropriate connectivity and security to the shared link.

Once approval has been granted, the partner agency should be made aware that they are responsible for appropriate use and storage. For hard copy media this may be done by writing a letter outlining the partner’s responsibilities, including the extent of permitted use.

2.6 Data Capture Public and Non-Public Places

2.6.1 Scenarios that may involve the operation of a BWC

It is a matter of individual discretion with regard to when BWCs may be operated. The operation of a BWC shall only take place as is necessary and proportionate with regard to the purposes under the Act, which are set out at section 2.1.1 of this COP, and such operating is in accordance with this COP. Decisions in this respect, will be guided by the GDMM and the Garda Human Rights Framework, but it is an individual decision for the Garda personnel in the circumstances.

Examples of instances where a BWC may be operated are as follows:

- Stop and Search;
- Scene Review and Searching Locations;
- Private Dwellings (where there is a genuine policing purpose);
- Witness First Accounts;
- Incidents of Domestic Abuse and Hate Crime;

- Public Order Incidents;
- Roads Policing Incidents.

Incidents should be recorded in accordance with the recording process documented in this COP. Guidance on potential scenarios is contained in sections 2.6.4 – 2.6.20.

2.6.2 Scenarios/locations in which a BWC are operated with specific considerations

The following set of scenarios and locations, though not exhaustive, require special consideration in relation to the operation of BWCs:

- Stop and search
- Scene review and searching locations
- Private dwellings
- Witness first accounts
- Incidents of domestic abuse & hate crime
- Public order incidents
- Roads policing incidents
- Garda stations / premises (custody facilities)
- Hospitals / mental health / social care facilities / sensitive locations
- Sensitive operations
- Court premises
- Use of force
- Pre-planned operations

Considerations for these scenarios are detailed in this section of this COP. In addition, Garda personnel should also consider the following general principles when deciding whether or not to operate BWCs where:

- BWC is an important tool for gathering objective evidence which contributes to the effective investigation of crime and vindicating the rights of individuals concerned, including Garda personnel;
- It may assist in providing a record of evidence in respect of an investigation of any offence or suspected offence;
- It would be beneficial to provide transparency of an encounter;
- Garda personnel would have been expected or required to have completed a written record or report of an encounter or incident. The written record or report should be written prior to viewing a BWC recording.

2.6.3 Scenarios in which BWCs should not be used

BWCs should not be operated in the following circumstances:

- To make a recording for a purpose other than a legitimate policing purpose;
- To make a covert recording;
- Within Court premises, including a Courtroom and any public areas, unless it is for a legitimate policing purpose;
- Interviews of individuals detained under legislative provisions conducted in custody suites;
- To record indiscriminately or for an entire rostered tour of duty;
- During an intimate or strip search conducted by a medical practitioner in accordance with the Criminal Justice Act (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 and 2006;
- Where the recording might interfere with legal privilege;
- Where a suspect is engaged in a privileged conversation with a legal practitioner;
- Where Garda personnel are communicating with a Covert Human Intelligence Source (CHIS) source;
- To record Garda work practices unless it is for a legitimate policing purpose(s).

2.6.4 Stop and Search

Stop and search encounters involve policing powers that can have a potentially negative impact on some community relations.

BWC recording does not replace the need for compliance with Garda policies and procedures. The operation of BWCs to record stop and searches augments existing practice and does not replace current processes.

If a stop and search does not result in any evidence of criminal conduct, any non-evidential material must be retained and destroyed in accordance with section 2.5.3 'Data retention' of this COP.

Members of An Garda Síochána may not use BWC during a stop and search encounter for the express purpose of identifying the subject.

BWCs docked after a Stop and Search encounter should have the footage tagged with "Stop and Search" so it can be retained if required.

2.6.5 Scene Review & Searching Locations

BWCs can be very effective for recording the location of objects and evidence at the scene of a crime or during the search of premises/locations. Investigating Gardaí are then able to review, for example, scenes of serious crime, or record the positions of vehicles and debris at the scene of a serious road traffic collision. The use of BWCs to capture potential evidence in situ at scenes and searches, does not replace the obligation on members of An Garda Síochána regarding scene preservation, examination, and searching for and securing evidence.

In addition, BWCs can be used to provide evidence on the conduct of a search, to confirm where items were found and to record significant statements made

by persons present at the scene. When used in this way, BWC recordings should be treated as an evidential recording and, where possible, the Garda personnel should provide a running commentary of information to accompany the recording to provide context during a review of recordings.

When planning the execution of a search warrant or similar operation, consideration should be given to how many Garda personnel with BWCs will be present and to how many (or which of them) may record specific elements of the operation. Evidentially and for the purposes of continuity, BWC can be switched on and recording prior to entering a premise/location and remains so during the search.

2.6.6 Private Dwellings

Under normal circumstances, BWC should not be used in private dwellings. There is an expectation of privacy within a private dwelling. Garda personnel shall consider the necessity and proportionality of operating a BWC in a private dwelling given the intrusive nature of this action. The Act requires Garda personnel, when operating a BWC in a private dwelling, and where appropriate, to notify the occupants at the start of the operation of a BWC and record the notification.

Examples of scenarios in which recording in a private dwelling is unlikely to be considered appropriate may include the delivery of a death notification or the attendance at the scene of a sudden death or while acting in a capacity for the Coroner's Office.

The operation of a BWC in a private dwelling is permissible for a legitimate policing purpose while at all times minimising interference with the rights of others to the least extent possible. These situations include, but are not limited to:

- An incident requiring An Garda Síochána to attend the private dwelling for the prevention, investigation, detection or prosecution of criminal offences, including domestic violence, to secure a true and accurate recording of the scene;
- Safeguarding the parties against threats to their security for example there are reasonable grounds to believe that An Garda Síochána's continued presence might be required to prevent a breach of the peace or injury to any person;
- Where a member of An Garda Síochána has reasonable grounds to believe that an offence has been, is being, or will be committed;
- Where a member of An Garda Síochána has reasonable grounds to believe that he or she may be required to exercise force to fulfil his or her duties;
- The execution of a court order or a warrant;
- Recording damage to property as a result of an offence or an act of violence or force.

In addition, recording an individual in a private dwelling is permissible to secure the best evidence including any significant statement made by either party where:

- There are reasonable grounds to believe that domestic violence is occurring or may have occurred;
- There are reasonable grounds to believe that a breach of the peace is occurring or may have occurred;
- The recording of injuries to an individual that the member believes on reasonable grounds were sustained as a result of an offence or of an act of violence or force.

BWCs may be operated in a private dwelling to which Garda personnel were expressly or impliedly invited or permitted to be, for example members of An Garda Síochána responding to a call for service from a resident of the dwelling.

Searches of private dwellings under warrant, should encompass the use of the GDMM to inform the operation of BWCs or otherwise, and where appropriate consideration of privacy rights in conjunction with obligations to secure and gather evidence.

2.6.7 Victim First Accounts

BWCs should only be used to capture the first accounts of an individual, including victims and/or witnesses, for a purpose in accordance with section 9(3)(e) of the Act and this COP.

Garda personnel are not required in the Act to seek explicit permission for the BWC recording of a first account from victims/witness, prior to commencing recording of their account. Careful consideration should be given to the necessity and proportionality of operating a BWC when victims/witnesses are a vulnerable person or a child (under the age of 18 years). In situations where there are multiple individuals, individual recordings for each witness's account should be made in so far as is practicable.

The first account is principally about determining any action that is immediately necessary. Only such questions should be asked as are necessary and proportionate to the purpose pursued to:

- Establish whether an offence has been committed;
- Establish where it occurred and who was responsible;
- Assess current risk(s) to individuals, including victims and/or witnesses; and
- Identify and prioritise areas of the investigation.

There may be circumstances in which Garda personnel capture a 'dying declaration' of a mortally wounded victim or record themselves and/or other Garda personnel's carrying out their duty in providing first aid while awaiting the arrival of ambulance or paramedic. These are a permissible use of BWC.

BWC recordings do not replace the need for formal written statements from victims and witnesses, but they can be used as supporting evidence for

investigations. Garda personnel should bear in mind that any questioning of witnesses beyond the parameters laid out above may lead them to inadvertently conducting a witness interview.

2.6.8 Incidents of Domestic Abuse

Garda personnel equipped with BWCs may record at domestic related incidents, which they attend, including their immediate approach and arrival at a scene.

2.6.9 Public Order Incidents

BWCs may be operated during public order incidents, however certain constraints may apply. The right to peaceful protest should not be interfered with save in exceptional circumstances, in accordance with law, for example public health concerns limiting freedom of assembly e.g. COVID 19. This includes both planned and unplanned protests, and public order disturbances, which are not forewarned. Where BWCs are operated, recordings should commence at the earliest possible opportunity and footage should be reviewed by supervising personnel as soon as possible should any arrests or specific incidents of note occur.

BWCs are an important tool for gathering objective evidence in public order incidents, which contributes to effective investigations and vindicating the rights of all individuals, including Garda personnel and their personal safety. The operation of the BWC should not be allowed to interfere with this. If a BWC is lost or stolen during a public order incident, Garda personnel should not take disproportionate risks to recover the BWC.

All damaged, lost or stolen devices must be reported as soon as possible and engagement with the Data Protection Unit to report any loss of recordings and potential risk of a personal data breach.

2.6.10 Roads Policing Incidents

BWCs may be used when attending roads policing incidents/collisions. This will provide Garda personnel with the opportunity to capture potential evidence to support the investigation and detection of offences. Evidence may include such matters as the distribution of debris, any markings on the road surface, and the resting location of vehicles involved in an incident/collision.

2.6.11 Garda Stations / Premises (Custody Facilities)

BWC recordings may cease when an arrested person arrives at a custody suite in a Garda station/custody facility, if An Garda Síochána have in place CCTV at the location. This CCTV will take primacy for recording. BWC recordings may continue in circumstances where there are no CCTV systems in a custody suite at a Garda station/custody facility.

BWC may be operated for pre-planned actions such as:

- Where an arrested person is to be taken to a cell using force;
- Where an arrested person is already in a cell and requires removal using force; or

- Any pre-planned use of force where the member in charge has concerns over the coverage of visual and audio CCTV in the custody suite.

In the case of spontaneous incidents where use of force is necessary, Garda personnel may commence BWC recording in any area of the custody suite and its environs. In these circumstances, the operation of a BWC shall only take place as is necessary and proportionate for a legitimate policing purpose.

2.6.12 Hospitals / Mental Health / Social Care Facilities / Sensitive Locations

Garda personnel can operate BWCs without consent whilst lawfully on private premises. When considering the operation of BWCs within a hospital, mental health or social care premises for a legitimate policing purpose, Garda personnel should be mindful of any collateral imposition that may occur and aim to minimise interference with the rights of others to the least extent possible. No BWC recording should be made of other individuals that may be in the vicinity who have no relation to the incident in question that falls outside of this test.

The operation of a BWC shall only take place as is necessary and proportionate for a legitimate policing purpose in accordance with the Act and this COP while minimising interference with the rights of others to the least extent possible.

Staff within such premises should be consulted and informed of any decision to operate BWCs is for a legitimate policing purpose and the rationale recorded.

2.6.13 Sensitive Operations

In certain circumstances, there is a need to consider the requirement to provide for Garda personnel safety and/or operational security. In such instances prior to any deployment, an assessment should be carried out as to when or whether BWCs are operated. In such instances, the primary considerations are the legitimate policing purposes in accordance with the Act and this COP while minimising interference with the rights of others to the least extent possible. Factors to be considered include:

- The presence of covert assets;
- Sensitive methodology or intelligence;
- Possible identification of officers/individuals/equipment;
- Safety issues in respect of environments where there are enhanced levels of tension;
- Location; or
- Availability of other recording capabilities, e.g. CCTV.

If the wearing of BWCs is not deemed operationally suitable then the decision and appropriate rationale needs to be recorded by the member of Garda management in charge of the operation.

It should be noted that where BWCs have been operated, and the nature/content of the footage means that anonymity for an individual may be

sought, audio and/or visual redaction can be carried out via the DEMS software (See Section 2.5.1. Use of the Digital Evidence Management System).

2.6.14 Court Premises

BWCs should not be turned on within Court premises unless there is an incident to which Garda personnel are required to respond and consider BWC recording necessary and proportionate for a legitimate policing purpose. Once the incident has been concluded, the BWC should be turned off. In relation to incidents within a courtroom whilst it is in session, Garda personnel should not switch a BWC on unless directed to do so by the Judge.

2.6.15 Use of Force

The operation of BWCs in situations where members of An Garda Síochána are required to use force provides invaluable evidential footage of the circumstances at the time of an incident and the behaviours and actions of individuals towards members of An Garda Síochána. Where it is impossible to commence recording prior to force being used, for example, when members of An Garda Síochána face spontaneous and/or unexpected violence, the balance would be in favour of operating the BWC as soon as it is reasonably practicable to do so. In such circumstances, it is recommended members of An Garda Síochána record the reasons for any delay in their statement and official notebook.

The existence of BWC recordings cannot justify, in isolation, any use of force. Members of An Garda Síochána must still justify their actions, perceptions and decisions by making a separate written record. The GDMM should form part of all decisions made. This should be based on their honestly held beliefs at the time of the incident. Members of An Garda Síochána must bear in mind that BWCs may not have captured the full circumstances of an incident, so written records (e.g. official notebooks) are still required to address the whole time period involved to ensure evidential continuity. This written record requirement will apply to all members of An Garda Síochána present.

The use of BWC does not remove the requirement to make a written/electronic record of any use of force.

2.6.16 Pre-planned Operations

When planning firearms operations, the Garda supervisor/manager in charge of the operation should consider the circumstances in which BWCs will be operated. Their decision should be recorded in a planning log or other record of the operation.

Garda supervisors/managers in charge of planning policing operations should ensure that their Garda personnel are made aware of this COP and the operation of BWCs, prior to commencement of the operation.

Consideration may be given by Garda supervisors to BWCs being used to audio and visually record any pre-planned briefings for operations for a legitimate policing purpose where such use of BWCs is deemed necessary and proportionate. Where a briefing is not recorded, the rationale for this decision should be noted.

2.6.17 Requests to Record

If a member of the public requests that their interaction with Garda personnel is recorded, even if there is no apparent evidential reason to do so, unless there are clear reasons to do otherwise, recording may take place provided it is considered by Garda personnel necessary, proportionate and for a purpose in accordance with section 9(3)(e) of the Act and this COP.

2.6.18 Objections to Recording

The operation of BWCs has been introduced for a legitimate policing purpose. If a member of the public objects to being recorded, Garda personnel should inform them that the operation of BWCs is authorised under the Garda Síochána Recording Devices Act 2023. The public must expect Garda personnel to operate BWCs when they are dealing with incidents to which they have been called to respond, or incidents, which dynamically require the attention of An Garda Síochána. Recording will not be ceased at the request of a member of the public.

When asked by a member of the public to stop a BWC recording, the Garda personnel shall assess the circumstances on a case-by-case situation. Consideration will be given to the person's motivation, religious or cultural reasons and any previous risks identified in dealing with the particular individual. Garda personnel must consider that the operation of a BWC shall only take place as is necessary and proportionate for a legitimate policing purpose(s), which are set out at section 2.1.1 of this COP.

Garda personnel should be mindful that the operation of BWC does not replace existing requirements, procedures, or policy obligations in respect to recording admissions, statements or declarations. If Garda personnel decide to continue recording despite the objections of an individual, they should state why they have decided to do so.

2.6.19 Collateral Intrusion

BWC's should only be operated for the legitimate policing purposes in accordance with the Act and this COP while minimising interference with the rights of others to the least extent possible. Garda personnel should always attempt to minimise collateral intrusion and privacy of others.

Where footage is to be shared with external organisations, (third parties), in accordance with law, redaction may be necessary to obscure the identification of uninvolved third parties shown.

2.6.20 Selective Capture

Selective capture applies when Garda personnel make a deliberate choice as to when to record and when not to record. Selective capture does not apply to the deletion of images already captured.

Where Garda personnel have decided to operate a BWC, they should record entire encounters from beginning to end without the recording being interrupted. However, the nature of some incidents may make it necessary and proportionate for Garda personnel to consider the rationale for not continuing to record throughout entire incidents.

Garda personnel must be aware that stopping a recording during any incident may require an explanation during court and/or discipline proceedings. In cases where Garda personnel do interrupt or cease recording at an ongoing incident, they should record their decision on the recording, and in their notebook including the grounds for making such a decision.

There are no circumstances in which Garda personnel flag the deletion on the DEMS of any recordings, (fully or partially), or images already recorded is justified. The BWC and DEMS used by An Garda Síochána is auditable and any deleted recordings is logged and reported to the systems administrator. Similarly, not docking a BWC to upload footage or the unauthorised release/publication of footage by any means is prohibited. Any such actions may result in legal or disciplinary proceedings.

2.7 Recording Process

This section details the recording process and should be read and followed sequentially.

2.7.1 Pre-Incident

There is no legal requirement in the Act for the operation of a BWC to be notified to individuals, with the exception of a dwelling. When a BWC is being operated in a dwelling, Garda personnel shall, and where appropriate, notify the occupants at the start of the operation and record the notification. The verbal announcement should be in ordinary plain language the following effect:

‘I am using a Body Worn Camera, this interaction is being recorded.’

The BWC buffer may capture the announcement if made within the buffer period prior to the BWC activation.

2.7.2 During Incident

Some evidential information may take place out of view or hearing of a BWC or its microphone. It may assist Garda personnel to provide a running commentary detailing evidence not present in the video (for example, temperature, or distinctive smells such as cannabis) to assist both Garda personnel and/or viewer with later recollection/viewing of a recording.

Recording should, where practicable, be restricted to those individuals and areas where it is necessary to provide evidence relevant to an incident. Garda personnel should consider taking steps to minimise collateral imposition for any individuals present who are not involved in the incident, particularly in areas where there is a higher than usual expectation of privacy, (e.g. changing facilities/bathrooms). When considering the operation of BWCs in such areas, Garda personnel must be mindful of the increased level of justification that is required to respect and protect the dignity of individuals and against inhuman or degrading treatment.

2.7.3 Concluding / Stopping Recording

As the decision to commence recording rests with individual Garda personnel, so does the decision to stop recording. Accordingly, Garda personnel should be satisfied that, in making the decision to stop recording, the risk of not capturing evidential material is minimised against the situations when BWC should be

activated. Garda personnel should under normal circumstances, cease recording in the following instances:

- It is no longer a legitimate policing purpose to record;
- The incident has concluded, or Garda personnel have left the scene;
- A different recording system takes primacy - e.g., when an arrested person arrives in custody, the BWC user may cease recording as custody cameras will take primacy for recording the encounter with the suspect;
- For firearms deployments when the firearms operation has concluded, unless use of force post incident management procedures have been implemented.

Garda personnel should therefore make a verbal announcement explaining the reason for stopping the recording before doing so to the following effect:

‘I am ending this recording as it is no longer necessary and proportionate to record / I am leaving the scene / etc.’

There will be occasions when Garda personnel decide to temporarily suspend recording before their involvement in an incident has concluded. Prior to any temporary suspension they should make a verbal statement explaining the reason for same.

For the avoidance of doubt, nothing in this COP shall operate to prevent the operation of BWCs where it is necessary and proportionate for a legitimate policing purpose in accordance with the Act and this COP while minimising interference with the rights of others to the least extent possible.

2.7.4 Post Incident

Garda personnel should upload BWC recording to the DEMS, identifying and tagging all files that are considered to be evidential.

2.8 Data Confidentiality, Security, Access & Viewing

Only trained Garda personnel will have access to BWC recordings. Garda personnel should only view BWC recordings for official policing purposes. All recordings must be viewed and managed in accordance with Garda procedure, data protection legislation and the Garda Code of Ethics.

BWC recordings will be subject to the permissions for the creation, reading, updating, deleting, and sharing detailed in the matrix below. The matrix illustrates the permissions for creation, reading, updating, deleting, and sharing of video and image files stored on the DEMS – with the intention to establish a framework for managing recordings in a way that does not harm the individual's vital interests set out in the Law Enforcement Directive (LED) and Data Protection Impact Assessment (DPIA).

File source	Create	Read	Update (working copy)	Delete
Recording (Non-Evidential)	User	User Supervisor/Line Managers SIO	User Super User Supervisor SIO	System (Automatic) Administrator
Recording (Evidential, Indictable Offences)	User	User Supervisor/Line Managers SIO	User Super User Supervisor SIO	System (Automatic) Administrator
Recording (Evidential, Summary Offence)	User	User Supervisor/Line Managers SIO	User Super User Supervisor SIO	System (Automatic) Administrator
Recording (Other Prosecutions / Complaints / Civil Litigation)	User	User Supervisor/Line Managers SIO	User Super User Supervisor SIO	System (Automatic) Administrator
Digital Image (Still Photography – Non-Evidential)	User	User Supervisor/Line Managers SIO	User Super User Supervisor SIO	System (Automatic) Administrator
Digital Image (Still Photography - Evidential)	User	User Supervisor/Line Managers SIO	User Super User Supervisor SIO	System (Automatic) Administrator

Access and viewing of recordings is fully auditable on the DEMS. The Audit Log will catalogue all Garda personnel who have accessed individual files and itemised the date and time case evidence has been viewed, edited (the Original Master is locked – so a secure copy is made for editing), transcribed, redacted, printed, or shared). The DEMS Audit also includes a comprehensive reporting tool allowing supervisors to quickly access chain-of-custody reports. The DEMS Audit will record every single activity, view, delete, share, edit, update and tag for every single file that is in the system e.g. video, document, picture/image, etc. The system will maintain this audit log for every file forever, even deleted files, as the date, time, and detail of the deletion is also recorded.

2.9 Data Use & Processing

Data usage and processing must be fully compliant with data protection legislation, including all document listed in section 4.4 Related Documents.

Recordings may be subject to different handling and retention policies, dependent on their source. The matrix below illustrates the security aspects, retention policies, and handling caveats relevant for each recording type covered by this COP. As far as reasonably possible, all data should be subject to encryption at rest and in transit.

Forms of recordings / images	Markings	Handling instructions	Data aggregation	Audit requirements	Retention period
BWC Footage Tagged - Non-Evidential	Official - Restricted	Garda personnel who recorded the footage and any Supervisor or above	Cross reference with other data sources, (e.g., GIS files). Meta-data used to analyse and capture potentially relevant evidential information	Automated process required under Section 82 of DPA for logging access to files – relevant for any data stored in an automated processing system Review of ongoing retention at regular intervals	<ul style="list-style-type: none"> 31 days Reminder email sent 7 days before footage is due for deletion
BWC Footage Tagged - Indictable Offences	Official - Confidential	Garda personnel associated with the investigation/incident			<ul style="list-style-type: none"> Retain for 12 months Reminder email sent after 11 months
BWC Footage Tagged - Summary Offences	Official - Confidential	Garda personnel associated with the investigation/incident			<ul style="list-style-type: none"> 9 months Reminder email sent after 8 months
BWC Footage Tagged - Other Prosecutions / Complaints / Civil Litigation	Official - Confidential	Garda personnel associated with the investigation/incident			<ul style="list-style-type: none"> 7 months Reminder email sent after 6 months
BWC Footage – NOT Tagged	Official - Restricted	Garda personnel who recorded the footage and any Supervisor or above			<ul style="list-style-type: none"> 60 days Reminder email sent after 50 days

2.9.1 Selective Retrieval

Save where otherwise provided for in this COP, copies of incidents captured on BWCs will only be made available by the applicable Chief Superintendent/Superintendent in the following instances:

- On commencement of criminal proceedings, upon a request being received to view the video material from a party to the criminal proceedings or their legal representative;
- Following instructions from the Director of Public Prosecutions;
- Where the repeated playing of the footage is required (e.g. to show a witness);
- To the Garda Síochána Ombudsman Commission (GSOC)/Fiosrú - Oifig an Ombudsman Póilíneachta (Office of Police Ombudsman) in accordance with the provisions of the Garda Síochána Act 2005 (as amended) or the Policing, Security and Community Safety Act 2024;
- Where required in civil or disciplinary proceedings as evidence in accordance with section 48 of the Act or where otherwise required by law.

Otherwise, the advices of Executive Director Legal (Crime Legal) should be sought.

2.9.2 Evidential Use

Garda personnel have a duty to seek out and preserve all evidence that has a bearing or a potential bearing on the issue of guilt or innocence. This includes video or audio captured by BWCs. The overriding principle for all video and or audio is that the product resulting from it will always be treated as if it were to be put before the courts, irrespective of the purpose for which it was recorded.

The creation and subsequent movement of working copies will be recorded in the DEMS, automatically in the Audit Log and investigating Garda's official notebook. The first master video will never be subjected to editing or processing. Further digital video versions will systematically be made for editing and processing purposes.

The master video must never be used for anything other than authentication in court. Further digital video extracts must then be made and designated as working copies. The retained media constitute separate exhibits and must be exhibited accordingly, and are always traceable and linked back to the original master video through the DEMS and Audit Logs.

The editing, redaction and processing of images/recordings may be applied where a justifiable cause is given. Editing, redaction and processing may take place for the purposes of: a) reducing the volume of material, b) achieving better quality of material, c) clarifying messages contained within, d) separating relevant material from irrelevant, and e) reducing collateral intrusion and sensitive images. All edits and changes are linked to the original Master Video and a full audit of every change, reduction, redaction and material alteration is recorded.

Editing, redaction and processing can improve the imaging/recording material to assist in the investigative or court process, but the evidential integrity of all material must be safeguarded throughout. Garda personnel carrying out the editing, redaction or processing will be suitably competent for the task and the DEMS system will maintain a complete history log of all alterations made to images/recordings. The history log forms part of the audit trail.

Where external suppliers (e.g. BWC/DEMS supplier(s)) are used for editing redaction or processing tasks An Garda Síochána will ensure compliance with the above principles and this COP.

BWC data should not be removed from the DEMS unless it is no longer necessary and proportionate to retain the data, as the DEMS has the audited ability for video/case files to be shared via link.

If evidence has to be downloaded, it should be stored on encrypted media and stored in line with the correct evidential process. The Audit of the DEMS can maintain the download, the reason and other necessary details. The media on which the compilation is recorded must be clearly marked 'edited version of' or 'compilation version of' and exhibited as such. Where it is not possible to label the media, the file should be labelled i.e. server-based storage.

Checks should be made prior to court dates, to ensure that the Court Service can link to the DEMS to display the images/recordings to an acceptable standard. It is good practice to attend the court prior to trial, in the company of the representatives from the prosecution (e.g. court presenter(s)/prosecuting counsel), and display the images/recordings as they are intended to be used in court. This will remove any confusion over the standard of quality. Technical personnel should be requested to attend such events, as they may be able to offer advice or be able to supply or recommend additional equipment.

2.9.3 Release / Publishing BWC Recorded Footage

Disclosure of the recorded video or images to third parties should only be made by the delegated data controller (applicable Chief Superintendent/Superintendent) in limited circumstances including:

- following a formal request from Garda personnel not below the rank of Superintendent for disclosure of video/images on the grounds that the images are likely to be of use for the investigation of a particular offence;
- a requirement under any enactment, rule of law or court order to disclose the video/images;
- if required by the delegated data controller's legal representatives where legal proceedings are being taken against the operator;
- media organisations, where it is decided that the public's assistance is needed to assist in the identification of victim, witness, or perpetrator in relation to a criminal incident. As part of that decision, the wishes of the victim or where appropriate their family (e.g. vulnerable person) of an incident should be taken into account. The release of BWC images to the media in a criminal investigation is solely within the remit of a Garda personnel not below the rank of Superintendent

where it is considered necessary and proportionate for the purpose of the investigation; and

- to individuals whose images have been recorded and retained in response to a subject access request (see section 3 of this COP) or other valid legal basis for disclosure.

All requests for access for disclosure should be recorded by the delegated data controller. If access or disclosure is denied, the reasons should be documented.

If access to or disclosure of the video/images is allowed, then the following should be documented:

- the date and time at which access was allowed or the date on which disclosure was made;
- the identification of any third party who was allowed access or to whom disclosure was made;
- the reason for allowing access or disclosure and the accompanying legal basis/supporting policy for the disclosure;
- the extent of the information to which access was allowed or which was disclosed; and
- the identity of the delegated data controller authorising such the access/disclosure.

Where the images identify or make identifiable an individual, the disclosure involves the processing of personal data. In circumstances where it is decided that images will be disclosed to the media or other third parties, redaction, blurring or otherwise disguising of the images and audio of individuals will need to be applied so that the individuals recorded in the footage are not identifiable. Where it is deemed necessary and proportionate to disclose footage that includes identifiable individuals, the rationale and the supporting legal basis and/or applicable policy should be clearly documented.

2.9.3.1 Witness Identification

Witnesses to a policing incident where the suspect is present, should under no circumstances be shown video/images captured on a BWC.

2.9.3.2 Intimate Searches

BWCs must not be used when undertaking intimate searches.

2.9.3.3 Recording of Interviews

BWCs must not be used when undertaking formal interviews.

2.10 Data Retention & Disposal

In the event, an individual convicted in the courts undertakes appeal or miscarriage of justice proceedings, the image/recording evidence must be retained on conviction. The circumstances of their retention should ensure that their integrity is maintained in the event of appeals, potential civil claims and or retrials.

Recordings are subject to the retention periods and policies set out under section 2.9 'Data Use & Processing'. The destruction of non-evidential recordings is automatic, requiring no input from Garda personnel.

2.11 Data Quality & Limitations

Upon collection/allocation, an initial check should be undertaken to ensure that a BWC performs properly. The following fundamental maintenance and quality principles must be upheld:

- The BWCs should be maintained to a level where the quality of the images from the equipment meets the standard required by An Garda Síochána's technical specifications;
- If a BWC is damaged, there should be clear procedures for:
 - o defining the person responsible for making arrangements for ensuring that the recording is recovered,
 - o ensuring that the recording device is repaired within a specific time period,
 - o monitoring the quality of the maintenance work; and
- The DEMS will log the maintenance of BWCs.

2.12 Professional Standards

BWC footage may be used to resolve complaints and help inform disciplinary investigations.

Footage not directly linked to a specific investigation can only be viewed with the authority of Chief Superintendent/Superintendent Internal Affairs. It is recognised that Garda personnel investigating complaints may require access to footage to inform investigations. During the POC exercise, they shall record/tag the rationale why the data was accessed on the DEMS, using the DEMS electronic audit trail.

The reasons for viewing of footage by complainants should be recorded by investigating Garda personnel. In such circumstances, consideration must be given to whether non-connected persons on the material shall be obscured to protect their identity/privacy.

2.13 Governance & Compliance

The introduction of the operation of BWCs by An Garda Síochána is an important tool for gathering objective evidence, which contributes, to the effective investigation of crime and vindicating the rights of individuals concerned, including the safety and protection of Garda personnel. It will enhance public confidence and trust in the Garda organisation, and be a technological advancement in the infrastructure that is provided to deliver an enhanced police service for Ireland.

2.14 Equipment Management & Maintenance

An Garda Síochána's BWCs must be maintained to a high standard. The BWCs must be checked before and after every use and if any issues are identified they must be immediately withdrawn from service until the issue(s) are resolved. All devices must be serviced and calibrated according to

manufacturer's guidelines and any repairs or alterations are carried out by trained and authorised Garda personnel.

2.14.1 Equipment Issue

BWCs will be issued to trained Garda Personnel on a personal or pooled basis for official use only, as part of a Proof of Concept (POC) exercise, in five stations within the DMR North Central, DMR South Central, Limerick and Waterford Garda Divisions. The use of the BWCs and management of recordings by Garda personnel will be in accordance with the provisions of Part 2 of the Garda Síochána (Recording Devices) Act 2023, this COP, relevant supporting Garda procedures, data protection legislation, including the document listed in section 4.4 Related Documents.

2.14.2 Equipment Loss / Stolen

Personal or Pooled BWCs that are lost or stolen must be reported as soon as possible by the Garda personnel to which they were assigned.

2.15 User Training

Before using BWCs, Garda personnel must complete any prescribed organisational training in their operation. This training may incorporate eLearning, video based material, instructor-led, virtual or classroom based delivery methods. Additional information will be published on the Garda Portal.

Only Garda personnel who have received and completed the appropriate training and acknowledge compliance with this COP will be permitted to operate official issue Garda BWCs.

3 Data Subject Rights

3.1 Compliance with Data Protection Legislation

When processing personal data for the purposes of exercising its statutory law enforcement functions, An Garda Síochána is subject to the requirements of Part 5 of the Data Protection Act 2018, which transposed the Law Enforcement Directive (EU) 2016/680 into national law. Per Section 8(1) of the Data Protection Act 2018, the Data Protection Act 1988 (as amended) continues to apply to processing of personal data for State security purposes, and the General Data Protection Regulation (GDPR) (EU) 2016/679 applies to processing of personal data for non-law enforcement purposes. In processing digital recordings relevant to this COP (including arrangements for access, storage and retention of recordings), An Garda Síochána will ensure compliance with the relevant and applicable data protection legislative framework for the processing concerned.

3.2 Access by Data Subjects

As a Data Controller, An Garda Síochána will ensure that data subjects can exercise their rights as outlined under data protection legislation. In the context of personal data contained on digital recordings processed for law enforcement purposes, this includes the right of access as outlined under Section 91 of the Data Protection Act 2018.

An Garda Síochána has a dedicated Data Protection Unit that manages subject access requests under data protection legislation on behalf of the organisation. The Data Protection Unit ensures that access requests are managed in line with the requirements and timescales specified under data protection legislation. This includes reviewing relevant material in relation to a request, including digital recordings, to ensure that appropriate redactions or restrictions are applied, as required, to protect the data protection rights of third parties, or, where a necessary and proportionate measure under data protection legislation, including for the purposes outlined under Section 94 of the Data Protection Act 2018.

Subject access requests regarding digital recordings relevant to this COP can be made in writing to the An Garda Síochána Data Protection Unit, Third Floor, 89-94 Capel Street Dublin 1 or by email to dataprotection@garda.ie. An Garda Síochána has a subject access request form (Form F20) available to aid in the completion of a subject access request.

3.3 Rectification of any error within the data

As a data controller, An Garda Síochána will ensure that data subjects can exercise their rights as outlined under data protection legislation. In the context of personal data contained on digital recordings processed for law enforcement purposes, this includes the right to rectification of inaccurate data as outlined under Section 92 of the Data Protection Act 2018. Inaccurate data may concern the recording itself or metadata associated with the recording that relates to an identified or identifiable data subject. Section 92(17) of the Data Protection Act 2018 defines inaccurate data as data that is incorrect or misleading as to any matter of fact, or incomplete in a material manner. The Data Protection Unit manages requests under Section 92 alongside Subject Access Requests as outlined under Section 3.2.

3.4 Erasure of data or restriction of its processing

As a Data Controller, An Garda Síochána will ensure that data subjects can exercise their rights as outlined under data protection legislation. In the context of personal data contained on digital recordings processed for law enforcement purposes, this includes the right of data subjects to request that personal data processed in contravention of data protection legislation and/or a separate legal obligation be erased, in accordance with the provisions of Section 92 of the Data Protection Act 2018. The Data Protection Unit manages requests under Section 92 alongside Subject Access Requests as outlined under Section 3.2.

3.5 Miscellaneous Data Subject Rights

As a Data Controller, An Garda Síochána ensures that data subjects are informed of their rights under data protection legislation, including the right of data subjects to lodge a complaint with the Data Protection Commission regarding the processing of personal data by An Garda Síochána in the exercise of its statutory functions. Where a restriction has been applied to the rights of a data subject, An Garda Síochána will advise data subjects of their right to request that the Data Protection Commission verify the lawfulness of the processing concerned, in line with the provisions of Section 95 of the Data Protection Act 2018. The Data Protection Unit functions include liaising with

the Data Protection Commission to resolve complaints by data subjects, including in cases where a Section 95 review is required.

3.6 Data Protection Impact Assessment

In line with the requirements of data protection legislation, An Garda Síochána has conducted a Data Protection Impact Assessment (DPIA) in relation to processing activities relevant to this COP that are likely to result in a high risk to the rights and freedoms of data subjects. In line with the requirements of Section 84 of the Data Protection Act 2018 for processing of personal data for law enforcement purposes, the DPIA includes a general description of the proposed processing operations; an assessment of the potential risks to the rights and freedoms of data subjects as a result of the proposed processing; and a description of safeguards, security measures and mechanisms to be implemented to mitigate said risks. Such measures, including this COP, and technical and organisational measures applied to technological solutions used by An Garda Síochána to capture, process, store and manage digital recordings.

4 Other Matters

4.1 Ethical Standards & Commitments

The Code of Ethics for the Garda Síochána sets out guiding principles to inform and guide the actions of all personnel of Garda Síochána at every level of the organisation.

Of particular relevance to this COP is the ‘Ethical Commitment’ to Information and Privacy. The Code of Ethics states that Gardaí must treat information that is provided to the Garda Síochána with respect and in accordance with the law. This protects the rights of people who provide information and the rights of people to whom the information refers. It also ensures that the public feel safe in volunteering information to the Garda Síochána.

4.2 Approving Authority

The Approving Authority for this COP is the Minister for Justice in accordance with Part 8 of the Garda Síochána (Recording Devices) Act 2023.

4.3 Monitoring and Review

This COP will be reviewed and amended where appropriate at the conclusion of the POC exercise. The revision of the COP will be conducted in accordance with the provisions of Part 8 of the Garda Síochána (Recording Devices) Act 2023.

4.4 Related Documents

The relevant legislation, and guidance supporting the operation of recording devices including BWCs by trained Garda personnel are as follows:

- Charter of Fundamental Rights of the European Union;
- Constitution of Ireland;
- Code of Ethics for the Garda Síochána;
- Data Protection Act 2018;

- Data Protection legislation (defined as all applicable data protection law including the Data Protection Acts 1988-2018 and the General Data Protection Regulation (EU 2016/679));
- European Convention on Human Rights Act 2003, Specifically Article 6 (Right to a Fair Trial), Article 8 (Right to Privacy) and Article 10 (Freedom of Expression);
- Garda Síochána (Recording Devices) Act, 2023;
- Garda Síochána Act 2005;
- Policing, Security and Community Safety Act 2024;

4.5 Consultation

In development of this COP, An Garda Síochána has undergone the consultation process in accordance with Part 8 of the Garda Síochána (Recording Devices) Act 2023.

4.6 Publication

This document will be made available to the public.

4.7 Disclaimer for members of the public

This document is not intended to, nor does it represent legal advice to be relied upon in respect of the subject matter contained herein. This document should not be used as a substitute for professional legal advice.



GIVEN under my Official Seal,
15 May, 2024.

HELEN MCENTEE,
Minister for Justice.

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
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