

# Body Worn Cameras

## 422.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of body worn cameras by members of this department while in the performance of their duties (50 ILCS 706/10-20).

### 422.1.1 DEFINITIONS

Definitions related to this policy include (50 ILCS 706/10-10):

**Body worn camera (BWC)** - An electronic camera system for creating, generating, sending, receiving, storing, displaying, and processing audiovisual recordings that may be worn on the person of a law enforcement officer.

**BWC Administrator** - A Deputy Chief, appointed by the Chief of Police, who is responsible for oversight of the Department's BWC Program.

**Buffering Mode** - The device feature for which the camera continuously video records and holds the most recent 30 seconds of video prior to record activation; audio recording is not captured when the camera is in this mode. With this feature, the initial event that causes the officer to activate the recording is captured automatically.

**Community Caretaking Function** - A function unrelated to the investigation of a crime including, but not limited to, participating in public meetings, assisting a lost child, providing death notifications, or performing well-being checks on the sick or elderly. Community caretaking functions exclude law enforcement-related encounters or activities.

**Event Mode** - When the event button on the BWC is activated, the camera is recording both audio and video for up to twelve hours. The buffered video, not audio, captured directly before the event will be saved and attached to the event's permanent memory.

**Flag** - The process of placing a category on a video file to associate the video file with an incident so as to ensure that the appropriate retention time frames are applied in accordance with this policy and the Law Enforcement Officer-Worn Body Camera Act.

**In Uniform** - Pursuant to the Law Enforcement Officer-Worn Body Camera Act, 50 ILC 706/10, "in uniform" means a law enforcement officer who is wearing any officially authorized uniform designated by a law enforcement agency, or a law enforcement officer who is visibly wearing articles of clothing, a badge, tactical gear, gun belt, a patch, or other insignia that he or she is a law enforcement officer acting in the course of his or her duties.

**Label** - The process of editing evidence to add case report number, title, or description.

**Law Enforcement-Related Encounters or Activities** - Pursuant to the Law Enforcement Officer-Worn Body Camera Act, 50 ILCS 706/10, this includes, but is not limited to traffic or pedestrian stops, arrests, searches, interrogations, investigations, pursuits, crowd control, traffic control, and non-community caretaking interactions with an individual while on patrol or any other instance in which the officer is enforcing the laws of the municipality, county, or state. It does not include tasks

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unrelated to the investigation of a crime such as participating in town halls or other community outreach; helping a child find the child's parents; providing death notifications; performing in-home or hospital well-being checks on the sick, elderly, or persons presumed missing; or completing paperwork while alone, participating in training in a classroom setting, or is only in the presence of another law enforcement officer.

**Subject of the Encounter** - The person who appears in the recording and interacts with a law enforcement officer in the course of a law enforcement activity.

### **422.2 POLICY**

It is the policy of the Geneva Police Department to provide members with BWCs. The police department is committed to the belief that video and audio documentation of a member's encounters with the community are an important and valuable resource. Use of BWCs will facilitate professionalism, accountability, and transparency by documenting interactions with the public.

This policy is not intended to erode relationships with the community by capturing footage or conversations with citizens who do not wish to be recorded. The police department strives to respect the reasonable privacy expectations of civilians, as provided by law.

Furthermore, the department recognizes that the BWCs may not capture all of what the members see and hear, or what members sense or experience. The recorded images do not provide the totality of the circumstances that drives a member's response to a particular situation.

### **422.3 BWC COORDINATOR**

As authorized by the Chief of Police, the Deputy Chief of Police Services shall act as the BWC coordinator, responsible for (50 ILCS 706/10-20):

- (a) Identifying members who are assigned BWCs.
- (b) Identifying members permitted to access recordings in order to redact, label or duplicate recordings.
- (c) Ensuring BWCs acquired on or after July 1, 2015, are equipped with pre-event recording of at least the 30 seconds prior to camera activation, and are capable of recording for a period of at least 10 hours.
- (d) Establishing procedures for:
  1. The care and maintenance of BWCs, including reasonable efforts to be made by supervisors to correct or repair BWC equipment upon notice from a member experiencing technical difficulties, failures, or problems with the equipment.
  2. Compliance with the Law Enforcement Officer-Worn Body Camera Act and guidelines established by the Illinois Law Enforcement Training and Standards Board (ILETSB) for the use of BWCs.
  3. Security of recordings including access controls.
  4. Redacting, labeling, and duplicating recordings.
  5. Supervisor and member review of recordings.

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- (e) Providing an annual report to the ILETSB pursuant to 50 ILCS 706/10-25.
- (f) Ensuring the Department uses authorized BWC recording media (50 ILCS 706/10-10).

### **422.4 MEMBER PRIVACY EXPECTATION**

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity of this department, regardless of ownership of the device it was made on, shall remain the property of the Geneva Police Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### **422.5 REASONABLE PRIVACY EXPECTATIONS**

A private citizen does not have a reasonable expectation of privacy when talking with members during the scope of a member's official duties, even when the contact is in a private residence. When members are lawfully present in a home, during the course of official duties, there is no reasonable expectation of privacy. Members are not required to give notice to the resident or others that they are being recorded.

Reasonable expectations of privacy may exist in the following circumstances, unless the member is responding to calls for service or engaged in any law enforcement-related encounter or activity:

- (a) Locations where a reasonable expectation of privacy exists, such as a medical facility, dressing room, locker room, or restroom, unless required for capturing evidence.
- (b) The incident involves sensitive exposures of private body parts, unless required for capturing evidence.
  - 1. Video recordings of strip searches are prohibited.
- (c) Personal activities of other department members during routine, non-enforcement related activities (i.e., locker rooms, break rooms, restrooms, completing police reports, case discussions with personnel).
- (d) Court related matter including, but not limited to, pre-trial conferences, depositions, or any other activity in the courtroom.

### **422.6 UNIFORMED MEMBER RESPONSIBILITIES**

Members shall document the existence of a recording in any report or other official record of the contact, including any instance where the camera malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

#### **422.6.1 NOTICE OF RECORDING**

Members must provide notice of recording to any person if the person has a reasonable expectation of privacy and proof of notice must be evident in the recording and documented in the member's case report. Consent to continue recording must be obtained. Proof of the notification and consent must be evident in the recording and documented in the member's case report.

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Once the initial notice has been provided, the notice requirement has been satisfied, even when another individual becomes a party to the communication. When consent is not obtained, the recording shall be deactivated. If exigent circumstances exist that prevent the member from providing the notice, notice must be given as soon as practical. A person's objection to being audio and video recorded will not be honored in situations pursuant to an arrest or search of a residence. A subject who is being arrested does not have a reasonable expectation of privacy. If a member is uncertain as to whether a reasonable expectation of privacy exists, the member shall provide verbal notice.

### **422.7 NON-UNIFORMED MEMBER RESPONSIBILITIES**

Members assigned to Investigations, or any other non-uniformed position, shall wear a BWC when they are engaged in any official related encounter or activities occurring while on-duty, subject to the exceptions listed in this policy. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the camera in a conspicuous manner, in accordance with manufacturer recommendations, when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Members assigned to Investigations, or any other non-uniformed position, shall be equipped with a BWC and record the following situations:

- (a) An in-person interrogation, whether custodial or non-custodial, of an individual suspected of committing a crime, regardless of the location of that interrogation.
- (b) A planned arrest detail.
- (c) Execution of a search warrant.
- (d) A uniformed patrol assignment.
- (e) A uniformed detail.
- (f) Any enforcement stop of a person or vehicle.
- (g) Response to an emergency call for service.
- (h) Any other law enforcement encounter as directed by a supervisor.

When an interrogation that must be recorded by law or this policy takes place in a location that has other video and audio recording options, such as an interview room, that equipment may be used in lieu of the member's BWC.

Members assigned to Investigations, or any other non-uniformed assignment, may carry and use an approved BWC any time the member believes that such a device may be useful in recording statements from other involved parties or documenting evidence.

In instances where a scene search and/or processing will be for an extended period of time, the camera is not required to be in recording mode. However, when the member believes there is a reasonable likelihood of engaging in law enforcement activity, as defined by this policy, the camera shall be in recording/event mode.

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### 422.7.1 SCHOOL RESOURCE OFFICERS

The Geneva Police Department recognizes that the duties and work environment for our School Resource Officers (SRO) are unique within law enforcement. It is recognized that SROs are required to maintain school safety while keeping the sanctity of the learning environment that the school provides. SROs are expected to continuously build trusting relationships with students and staff. They also often have impromptu interventions with students to deescalate arguments and/or conflicts. It is with this understanding that the Geneva Police Department provides special regulations to SROs on their use of BWCs, while remaining in compliance with state law. During the course of their official duties, school resource officers shall adhere to the provisions set forth in this policy in addition to the established agreement with Geneva School District 304.

It is recognized that SROs often have conversations with students/staff that are unrelated to the investigation of a crime and fall under the definition of a community caretaking function. It is not appropriate to record these conversations as it diminishes the trust between the individual and the SRO. BWC shall be activated in any of the following situations:

- (a) When summoned by any individual to respond to an incident where it is likely that a law enforcement-related activity will occur.
- (b) Any self-initiated activity where it is previously known or facts develop that a custodial arrest will be made or a law enforcement-related activity will occur.
- (c) Any self-initiated activity where it is previously known or facts develop that the questioning/investigation will be used later in criminal charges.
- (d) When feasible, an SRO shall activate the BWC when the contact becomes adversarial, the subject exhibits unusual or aggressive behavior, or circumstances indicate that an internal complaint will likely be filed.

If an incident is recorded on a BWC, the principal of the school shall be notified of the incident/recording.

### 422.7.2 TASK FORCE MEMBERS

Any member or investigator assigned to and operating as an agent of a multi-jurisdictional task force agency having a recognized, independent law enforcement authority (i.e., Federal Law Enforcement, Illinois State Police) shall wear a BWC in accordance with the provisions set forth in the policies of the applicable task force agency.

Members assigned to a multi-jurisdictional task force not having recognized, independent law enforcement authority (i.e., Kane County Major Crimes Task Force, Kane County Accident Reconstruction Team, Kane County S.W.A.T.) will wear a BWC in accordance with this policy.

### **422.8 SUPERVISOR RESPONSIBILITIES**

Supervisors shall ensure members equipped with BWC utilize them in accordance to policy and training. When a supervisor becomes aware that a recorded incident pertains to a critical incident, as outlined in this policy, the supervisor shall review only those recordings necessary and relevant to their investigative scope. The supervisor is responsible for forwarding the information via the chain of command.

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Not less than once every 30 days, supervisors shall ensure an appropriate sampling of BWC recordings pertaining to the work groups under their command are reviewed. The purpose of this review is to ensure that equipment is operating properly, and that members are using the cameras appropriately in accordance with this policy and training. The selection of recordings will be conducted in a manner that promotes an equitable review of recordings from all members.

Supervisors shall not review recordings for the sole purpose of searching for violations of department policy or law not related to a specific complaint or incident. If policy violations are observed by a supervisor, the primary goal of the supervisor shall be correcting the violations through counseling and/or additional training. Recordings shall not be used to discipline law enforcement officers unless (50 ILCS 706/10-20 (9)):

- (a) A formal or informal complaint of misconduct has been made.
- (b) A use of force incident has occurred.
- (c) The encounter on the recording could result in a formal investigation under the Uniform Peace Officer's Act. The Uniform Peace Officer's Disciplinary Act defines a formal investigation as the process of investigation ordered by a commanding officer during which the questioning of an officer is intended to gather evidence of misconduct that may be the basis for filing charges seeking his or her removal, discharge or suspension in excess of three days.
- (d) As corroboration or other evidence of misconduct.

### **422.9 ACTIVATION OF THE BWC**

This policy is not intended to describe every possible situation in which the BWC should be used, although there are many situations where its use is appropriate. Members should activate their BWC any time the member believes it would be appropriate or valuable to record an incident.

Members wearing BWCs and any clothing or any indication they are law enforcement shall have their BWC turned on in buffering mode at all times while they are on-duty and are responding to calls for service or engaged in law enforcement-related activities (50 ILCS 706/10-20).

BWCs should be activated to event mode in any of the following situations:

- (a) All enforcement and investigative contacts, including stops, field interview situations, and calls for service.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- (c) Self-initiated activity in which a member would normally notify Tri-Com Central Dispatch.
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

If exigent circumstances prevent a member from turning on a BWC when required, the camera shall be turned on as soon as practicable (50 ILCS 706/10-20).

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Members shall not record interactions with confidential informants unless exigent circumstances exist or the informant has or is committing a crime (50 ILCS 706/10-20).

Members should remain sensitive to the dignity of all individuals being recorded and unless recording with a BWC is required, exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a BWC. However, the BWC should be activated in situations described above as soon as reasonably practicable.

#### 422.9.1 CESSATION OF RECORDING

Once activated, the BWC shall remain on, in event mode, continuously until the member reasonably believes that the member's direct participation in the incident is complete or the situation no longer fits the criteria for activation. In instances where case strategy is being discussed and release of the information will compromise the investigation, the BWC shall remain in event mode. However, the information will be redacted in the event the recording is requested through the Freedom of Information Act (FOIA), and will be released in accordance with the provisions set forth in the Law Enforcement Officer-Worn Body Camera Act. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

BWC recordings shall be turned off when a victim, a witness, or a community member reporting a crime requests that the recording be stopped. The request should be captured on the recording. However, a member may continue to record or resume recording a victim or witness if exigent circumstances exist or the member has a reasonable articulable suspicion that the victim or witness has committed or is in the process of committing a crime. Under these circumstances, the member should indicate on the recording the reason for continuing to record despite the request of the victim or witness (50 ILCS 706/10-20).

Members are permitted to turn BWCs to buffering mode while inside a patrol car equipped with Mobile Audio/Video (MAV). Cameras may also be turned to buffering mode when the member is not engaged in law enforcement-related activities or when completing paperwork alone or while only in the presence of another member (50 ILCS 706/10-20).

In the event of an arrest, the incident is concluded when the subject has been transported to the designated holding facility with a functioning surveillance system. However, members may continue recording through the booking process to when the subject is placed in a cell.

When other recording mechanisms inside the holding facility are not in use, the member's BWC shall be left on event mode when the subject is placed in a cell.

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### 422.9.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Illinois law prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation is private or confidential (720 ILCS 5/14-2).

However, members using BWCs are not prohibited from recording a private conversation if the person is provided notice of the recording and proof of that notice is captured on the recording. If exigent circumstances exist that prevent the member from providing notice, notice must be provided as soon as practicable (50 ILCS 706/10-20).

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

### 422.9.3 EXPLOSIVE DEVICE

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.

### **422.10 PROHIBITED USE OF BWCS**

BWCs shall not be used to record:

- (a) Communications with other police personnel during routine, non-enforcement related activities.
- (b) Communications with other police personnel during planning and tactical discussions.
- (c) Encounters with undercover officers or informants.
- (d) When a member is on break or is otherwise engaged in personal activities.

Members are prohibited from using department-issued BWCs for personal use, and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty. Members shall not edit, alter, erase, duplicate, or copy, in any manner, BWC recordings without prior written authorization by a supervisor.

Members may share or distribute recordings of evidentiary value to other law enforcement agencies for legitimate law enforcement purposes.

Members committing violations related to the unauthorized edits, alterations, and dissemination of this data shall be subject to disciplinary action and the provisions set forth in 720 ILCS 5/33-9.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Duty Shift Supervisor. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and shall notify the Duty Shift Supervisor of such use as soon as reasonably practicable.

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Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

### **422.11 CRITICAL INCIDENTS**

Members may encounter situations where the circumstances rise to the level of a critical incident. These situations often require a response from supervisors and/or investigative units. The following situations, but not limited to, fall under this section:

- (a) Deadly force situations including those involving the discharge of a firearm.
- (b) A member involved traffic crash with fatalities or serious injuries.
- (c) A member sustains a serious injury or death in the line of duty.

The supervisor responsible for the investigation, but not directly involved in the actual incident, shall take physical custody of the BWC that may have captured the incident. Supervisors may review footage due to ongoing exigency that may aid the present investigation.

The supervisor shall, as soon as practicable, upload the recording(s) and make notification to the BWC Administrator to ensure the recording(s) are labeled appropriately.

Protected conversations with the appropriate counsel should not take place until the device is removed or completely powered down.

### **422.12 RETENTION OF RECORDINGS**

All recordings other than those made with body-worn cameras shall be retained for a period consistent with the requirements of the organization's records retention schedule, but in no event for a period less than 90 days unless the recordings are made a part of an arrest or the recordings are deemed evidence in any criminal, civil, or administrative proceeding and then the recordings must only be destroyed upon a final disposition and an order from the court (720 ILCS 5/14-3(h-15)).

#### **422.12.1 RETENTION REQUIREMENTS AFTER 90 DAYS FOR BWC RECORDINGS**

After the 90-day storage period, BWC recordings must be destroyed unless any of the following occur (50 ILCS 706/10-20):

- (a) A formal or informal complaint has been filed.
- (b) The member discharged a firearm or used force during the encounter.
- (c) Death or great bodily harm occurred to any person in the recording.
- (d) The encounter resulted in a detention or arrest other than a traffic stop resulting in only a minor traffic offense or a petty offense with a fine of more than \$1,000.00.
- (e) The member is the subject of an internal investigation or otherwise being investigated for possible misconduct.
- (f) The supervisor of the member, prosecutor, defendant, or court determines that the encounter has evidentiary value in a criminal prosecution.

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- (g) The recording member requests that the video be retained for official purposes related to the member's official duties or believes that it may have evidentiary value in a criminal prosecution.

Under these circumstances, the recording of the encounter shall not be altered or destroyed for two (2) years. If the recording is used in a criminal, civil, or administrative proceeding, the recording shall not be destroyed except upon a final disposition and order from the court.

Recordings may be retained any time a supervisor designates the recording for training purposes and may be viewed by members, in the presence of a supervisor or training instructor, for the purposes of instruction, training, or ensuring compliance with department policies.

### **422.12.2 PUBLIC RELEASE OF BWC RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy. All recordings should be reviewed by the custodian of records prior to public release. Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of court.

The subject of the encounter does not have a reasonable expectation of privacy if the subject was arrested as a result of the encounter. A witness does not include a person who is a victim or who was arrested as a result of the encounter.

Only recordings or portions of recordings responsive to a FOIA request shall be available for inspection or reproduction. Any recording disclosed under FOIA shall be redacted to remove the identification of any person that appears on the recording and is not the officer, a subject of the encounter, or directly involved in the encounter. All recordings will be reviewed by an evidence custodian prior to any public release. Nothing in this section shall require the disclosure of any recording or portion of any recording which would be exempt from disclosure under FOIA.

### **422.13 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or label recordings in accordance with procedure, and document the existence of the recording in any related case report.

A member should transfer, tag or label recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure, but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

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- (g) The recording or portions of the recording may be protected under the Freedom of Information Act or the Law Enforcement Officer-Worn Body Camera Act (5 ILCS 140/7.5; 50 ILCS 706/10-20).

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (i.e., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

### **422.14 REVIEW OF BWC RECORDINGS**

When preparing written reports or other documentation, members may review their recordings, and use them as a resource, provided that the member discloses the review in the report or documentation. Members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less-detailed report.

The recording member or their supervisor shall not redact, duplicate or otherwise alter a BWC recording. For the purposes of redaction or duplicating BWC recordings, access to BWC recordings shall be restricted to only those personnel responsible for those purposes.

Members shall not have access to or review the member's own BWC recordings or the BWC recordings of another member prior to completing reports or other documentation when the member:

- (a) Has been involved in or is a witness to an officer-involved shooting, use of deadly force incident, or use of force incident resulting in great bodily harm.
- (b) Is ordered to write a report in response to or during the investigation of a misconduct complaint against the member.

If the member prepares a report related to the circumstances listed above, subject to a supervisor's approval, a member may file a supplementary report after viewing BWC recordings. The member shall document in the supplementary report that the member reviewed recordings (50 ILCS 706/10-20).

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation, or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing a member's performance.

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Assigned Field Training Officers (FTOs) may access and review recordings for training purposes.

Any detective or investigator directly involved in the investigation of a matter may access and review recordings pertaining to that investigation, but may not have access to delete or alter such recordings.

Court personnel who are otherwise authorized to review evidence in a related case may review video recordings pursuant to lawful process.

### **422.15 ANNUAL REVIEW**

The Deputy Chief of Police Services shall conduct a documented annual review of the BWC Program, along with the procedures established in this policy. The purpose of this review is to determine if there are any training concerns, court decisions, or technological changes that warrant changes to departmental practices and the procedures established in this policy.