

Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL) 2019

Implementation Guide for Law Enforcement, Prosecutors, and Victim Advocates

Authored by:
Bethany Backes, PhD,
MSW, MPH
Anna Wasim, LMSW
Jennifer LaMotte, MSSW,
MPAff
Katherine Grau
Leila Wood, PhD, LMSW
Matthew Kammer-Kerwick,
PhD

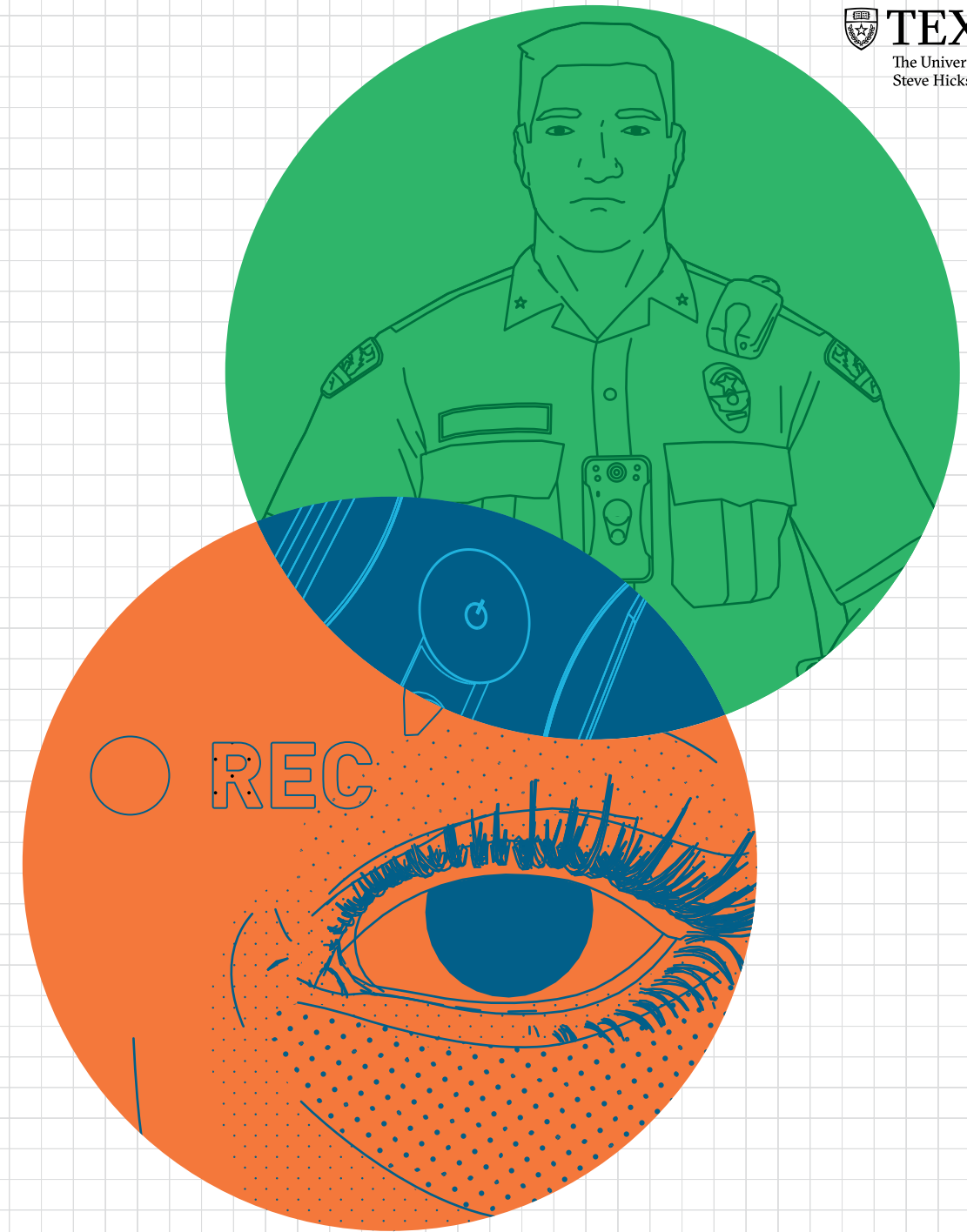
Please contact Dr. Bethany Backes at bethany.backes@ucf.edu with any questions or comments regarding the ReVEAL project and this Implementation Guide.

This project was supported by Grant No. 2018-WF-AX-0022 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.

This project was supported by Subgrant No. 3641901 awarded by the state administering office for the Office on Violence Against Women, U.S. Department of Justice's STOP Formula Grant Program. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the state or the U.S. Department of Justice.

This study was funded through a grant from the Public Safety Office of the Texas Office of the Governor. Neither the Office of the Governor nor any of its components operate, control, are responsible for, or necessarily endorse, this report (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided).

We recommend viewing this .PDF document in two-page (spread) mode.



Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL) 2019

Implementation Guide for Law Enforcement, Prosecutors, and Victim Advocates

Authored by:
Bethany Backes, PhD, MSW, MPH
Anna Wasim, LMSW
Jennifer LaMotte, MSSW, MPAff
Katherine Grau
Leila Wood, PhD, LMSW
Matthew Kammer-Kerwick, PhD

Please contact Dr. Bethany Backes at bethany.backes@ucf.edu with any questions or comments regarding the ReVEAL project and this Implementation Guide.

This project was supported by Grant No. 2018-WF-AX-0022 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.

This project was supported by Subgrant No. 3641901 awarded by the state administering office for the Office on Violence Against Women, U.S. Department of Justice's STOP Formula Grant Program. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the state or the U.S. Department of Justice.

This study was funded through a grant from the Public Safety Office of the Texas Office of the Governor. Neither the Office of the Governor nor any of its components operate, control, are responsible for, or necessarily endorse, this report (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided).

Table of Contents

- ① **Background and Overview, p.4**
- ② Guidance for Law Enforcement, p.10
- ③ Guidance for Prosecutors, p.24
- ④ Guidance for Victim Advocates, p.42
- ⑤ Technology and Equipment Guidance, p.54
- ⑥ ReVEAL Summary Report, p.62
- ⑦ Appendices, p.80

Project ReVEAL:

Background and Overview 1

04

1. Background and Overview

2. Guidance for Law Enforcement
3. Guidance for Prosecutors
4. Guidance for Victim Advocates
5. Technology and Equipment Guidance
6. ReVEAL Summary Report
7. Appendices

05

This Implementation Guide presents research findings, practical guidance, and recommendations from the three-year study Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL). The report includes specific guides for law enforcement, prosecutors, and victim advocates that address considerations for video practice relevant to each respective field. It includes considerations for video technology and equipment, victim engagement, and interagency collaboration. Site-specific examples and case studies are included throughout the guide to illustrate the recommendations and findings outlined in the report.

Background and Overview 1.1

Purpose

The ReVEAL (Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases) evaluation is a researcher-practitioner partnership between the University of Texas at Austin, the Office of the Governor of Texas Criminal Justice Division (CJD), the Texas Council on Family Violence (TCFV), and multiple Texas counties. ReVEAL examined the practice of recording video victim statements, the use of these statements in prosecutorial decision-making, and the impact video evidence has on convictions and case outcomes. The goals of the ReVEAL program are to (1) strengthen the quality of case evidence in family violence cases and (2) improve prosecution rates in family violence-related crimes across the state.

Background

In early 2016, sixteen Texas jurisdictions received video recording equipment (see [Appendix B: Camera Equipment Inventory](#)). Prior to this rollout of equipment, two jurisdictions started to establish programs to use video recording equipment in family violence cases. These two model programs used handheld video cameras to gather evidence and statements during family violence calls. The video-recordings were made available to attorneys as part of the case review process and included with the case file if accepted for prosecution. TCFV and the District Attorneys (DAs) from these jurisdictions held six regional trainings to provide an overview of video equipment and recommendations for the implementation of a new video practice. Following the trainings, jurisdictions were encouraged to develop their own set of policies, training protocols, and storage practices related to the use of video evidence in family violence cases.

ReVEAL Evaluation

Project ReVEAL is a mixed-methods evaluation examining the role video evidence, specifically video-recorded victim statements, plays in criminal justice outcomes in family violence criminal cases. The project was conducted over three years, and this Implementation Guide builds on a Preliminary Findings report and Interim Report (Wood et al., 2017b; Backes et al., 2019). The ReVEAL project gathered qualitative data through interviews and focus groups across a total of six sites. The interviews reflected a range of perspectives across the criminal justice system, including prosecutors; law enforcement patrol officers, detectives, and leadership; victims and victim advocates; judicial staff; defense attorneys; investigators; and other criminal justice support staff. Quantitative analyses were also conducted with sites able to provide an adequate sample of closed case data.¹ Access to adequate samples of closed case data depended on three factors: the volume of cases handled by each jurisdiction, the length of time from initial incident to case disposition, and the sites' data management infrastructure.

¹ Due to funding and Institutional Review Board restrictions, the research team was only able to analyze closed case file data. This limited the number of cases available for analysis due to both the relatively recent implementation of video programs and the length of time it takes to process family violence cases.

Quantitative case analysis was not feasible in some jurisdictions that handle smaller volumes of cases, have lengthy case processing timetables, and/or rely more heavily on paper files and hard copies of video evidence stored on DVDs.

The first year of the Project ReVEAL examined the piloting of the video-recording practice in three Texas jurisdictions across the state. This initial phase included one site with an existing video program and two comparison sites – one urban and one rural – who were in the process of adopting the practice of video-recording victim statements (see the Project ReVEAL Methods Report, Wood et al., 2017a). The first year of the evaluation documented the benefits of the video practice in improving the quality and availability of evidence in family violence cases. Cases were significantly less likely to be dismissed and more likely to result in a plea if video statements were present (see the Preliminary Findings Report, Wood et al., 2017b). Sites adopting a new video program also identified several barriers. These included breakdowns in communication between prosecution and law enforcement offices; challenges related to storing and transferring video files; a lack of policies related to gathering and reviewing video-recorded statements; and unanticipated costs due to the software and storage required for video files.

Year two of the project continued to examine the two urban sites and added a site with an existing video program to further explore the role of video on case outcomes (Backes et al., 2019). Consistent with findings from the first year, case outcome data indicated that video evidence is associated with guilty pleas and fewer dismissals. Preliminary analysis also indicated that prosecutors may decline cases with victim video statements at lower rates and cases with videos were more likely to be enhanced to a higher level charge. Quantitative analysis could only be done across the two urban sites, as the third site had limited

closed case data available for review. The third site was also in the process of transitioning to a new case management system, and in many cases, video evidence could only be identified by reviewing paper files. As in phase I, interviews suggested that delays in family violence cases may have affected the number of cases available for analysis (Backes et al., 2019). Interviews with prosecutors and law enforcement officers suggested that video statements were useful throughout the criminal justice process in family violence cases. Video-recorded victim statements, whether taken by a handheld camera or by body-worn cameras, allowed officers to more thoroughly and accurately document family violence incidents. Prosecutors routinely reviewed video evidence in their initial assessment of the case and in negotiations with defense attorneys. When cases go to trial, videos were a useful tool in preparing for trial, but legal barriers limited prosecutors' ability to enter video statements as evidence (Backes et al., 2019).

The third and final year of the project concluded data collection in previous sites and explored the utility of the video-recorded statements for rural jurisdictions. Rural sites had similar challenges to previous study sites in terms of IT infrastructure and ability to transfer evidence efficiently to prosecutors. Rural sites saw a need for additional staff and infrastructure to tag and review video evidence. Prosecutors continued to see video statements as valuable pieces of evidence despite limitations to admitting them in court. They also used videos to obtain a clear overview of what occurred, identify injuries and other case elements, negotiate with defense attorneys, and secure plea deals. Over the course of the project, body-worn cameras were increasingly adopted across all sites as a standard practice. This Implementation Guide incorporates findings from sites using both handheld and body-worn cameras to record family violence statements, with special considerations for each equipment type. Throughout the project, the perspectives of

victims in these cases were gathered through focus groups and individual interviews. The ReVEAL team also conducted interviews with victim advocates, both within the criminal justice system and in community-based organizations. Most victims were unaware of being filmed, especially if a body worn camera was involved. Victims continued to report mixed perceptions of video-recorded statements. Some appreciated video's ability to capture an accurate representation of what occurred and an account of the incident in their own words. However, victims and advocates also expressed many concerns, including feeling intimidated or anxious about giving a video statement, fears that the offender would have access to the video and might retaliate, and confusion about the criminal justice process and how videos would be used. Some victims also wanted a clear understanding of their right to decline a video statement.

This Guide

This Implementation Guide provides an overview of the video-recording practices currently in place across several Texas jurisdictions. It provides guidance and considerations for jurisdictions in the collection and use of video evidence in family violence cases. This guide is divided into seven sections, including this Background and Overview. The second section includes information for law enforcement on the purpose of video statements, how to develop and implement a video program, and considerations for sustaining a program. The third section focuses on prosecutorial practices for the use of video statements including legal considerations, coordination with partners, and victim engagement around the video statement. The fourth section provides specific information for victim advocates and includes considerations for victim privacy and confidentiality. The fifth section focuses on technology and equipment, with information on type of equipment, technology infrastructure, and efficient transfer of evidence between

agencies. The sixth section is the Summary Report of the ReVEAL project. The Summary Report is a technical overview of the evaluation that includes major findings and links to the ReVEAL reports that were previously released. The seventh and final section is comprised of the appendices and provides sample protocols, site overviews, equipment charts, and additional resources that may be helpful to users of this guide. Throughout this guide, there are several examples of cases and practices that illustrate the specific issues that may present themselves when launching a video-recording program. These examples highlight the complexities of the practice while using real world examples of how video impacts family violence cases, victim safety, and privacy.

Acknowledgements

Family violence is a serious and widespread crime that creates a lasting impact for those it touches. The research team is incredibly grateful for those who shared their experiences of abuse and being video-recorded with our team, as well as the expertise provided by those who serve victims everyday. This project would not have been possible without the dedicated criminal justice and community professionals at the six research sites. We are grateful for their partnership and commitment to addressing family violence. The ReVEAL team is also grateful to the staff at the Texas Council on Family Violence (TCFV) for their role in developing this project and for their collaboration and expertise. The research team thanks the Office of the Governor of Texas Criminal Justice Division (CJD) for their partnership and support throughout the project. This project was also made possible through the contribution of other members of the research team including Amelia Casas, Micaela McDonald, and Abigail Oduro; Dr. Bruce Kellison of the Bureau of Business Research; and Margaret Bassett and Dr. Noel Busch-Armendariz of the Institute on Domestic Violence and Sexual Assault.

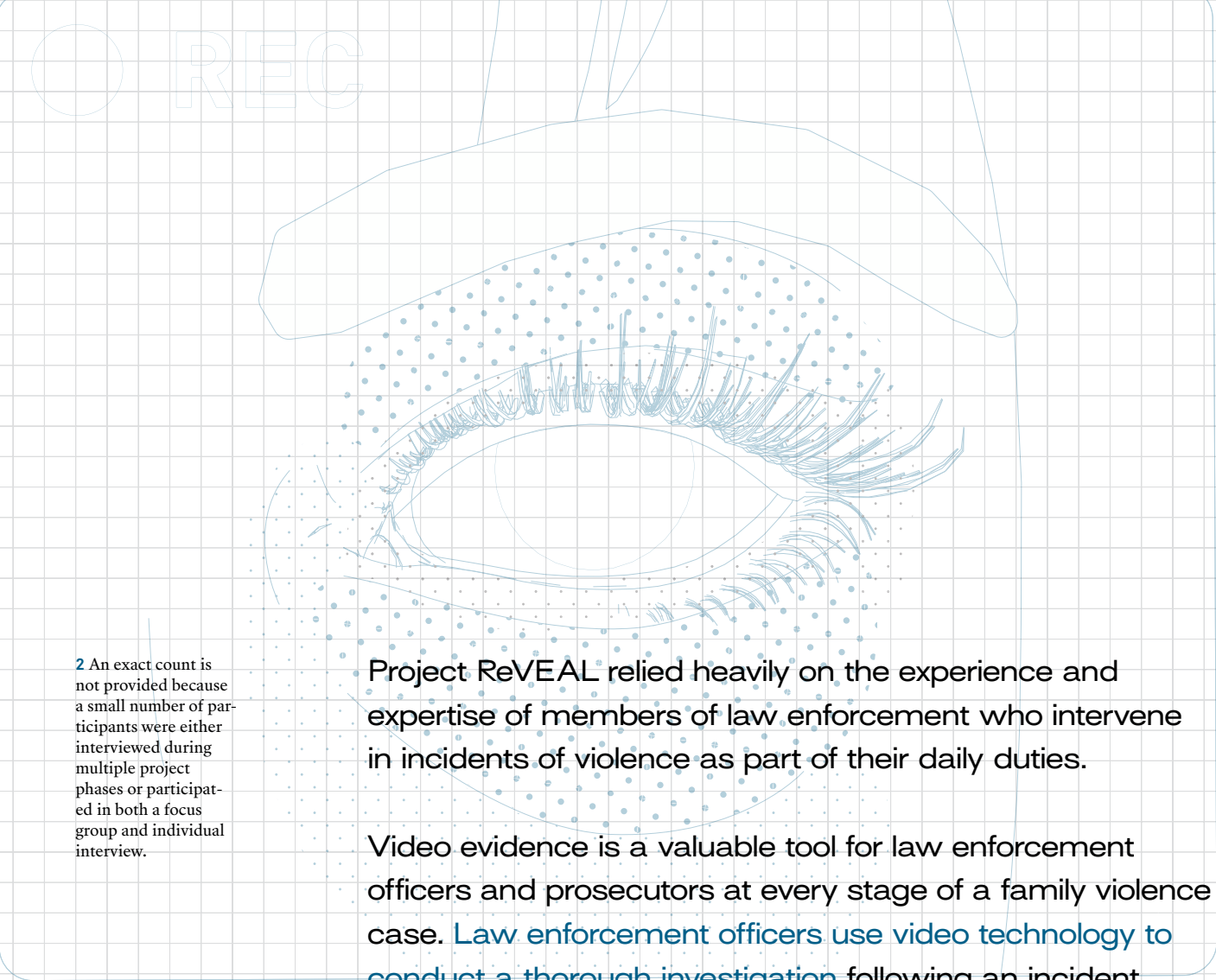
References 1.2

Backes, B., Wasim, A., LaMotte, J., Kammer-Kerwick, M., Wood, L., & McDonald, M. (2019). *Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL) 2.0: Case Characteristics and Initial Impact. [Interim Report]*. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault. Retrieved from: <https://sites.utexas.edu/idvsa/files/2019/03/ReVEAL-Methods-Report-formatting.pdf>

Wood, L., Wasim, A., Busch-Armendariz, N., Kammer-Kerwick, M., Bassett M., & Kellison, B. (2017a). *Methods Report: Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL): Determining Efficacy, Cost Efficiency, & Impact on Outcomes*. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault. Retrieved from: <https://sites.utexas.edu/idvsa/files/2019/03/ReVEAL-Methods-Report-formatting.pdf>

Wood, L., Wasim, A., Busch-Armendariz, N., Kammer-Kerwick, M., Bassett M., & Kellison, B. (2017b). *Project ReVEAL: Preliminary Findings Report*. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault. Retrieved from: <https://sites.utexas.edu/idvsa/files/2019/03/Project-ReVEAL-Preliminary-Findings-Report.pdf>

Project ReVEAL: Guidance for Law Enforcement ②



² An exact count is not provided because a small number of participants were either interviewed during multiple project phases or participated in both a focus group and individual interview.

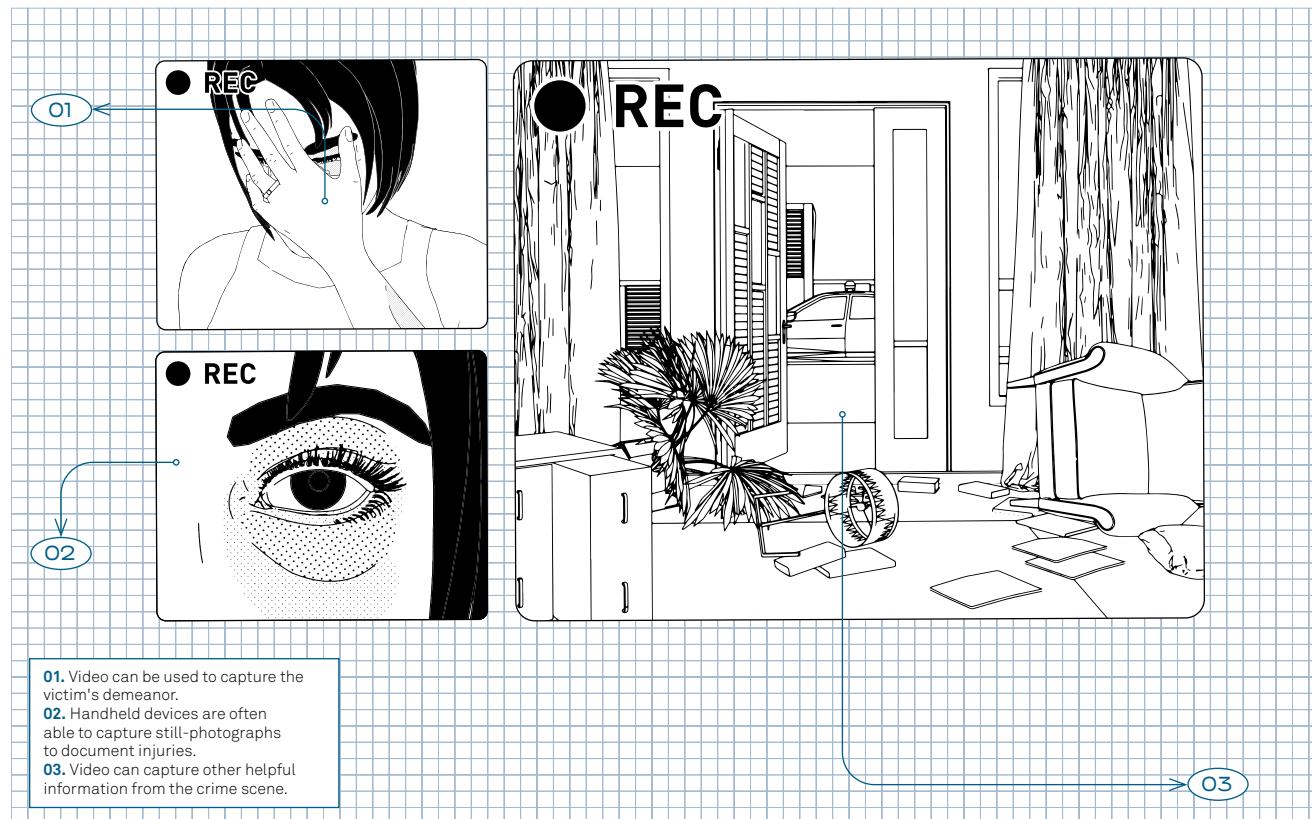
Project ReVEAL relied heavily on the experience and expertise of members of law enforcement who intervene in incidents of violence as part of their daily duties.

Video evidence is a valuable tool for law enforcement officers and prosecutors at every stage of a family violence case. [Law enforcement officers use video technology to conduct a thorough investigation](#) following an incident and to capture an accurate representation of the scene. Video-recorded statements provide an account of an incident in the victim's own words while simultaneously capturing their emotional demeanor and any visible injuries. Over the course of this project, the research team conducted interviews or focus groups with over 40 law enforcement officers from six counties across Texas.² The research team also conducted a survey with 400 law enforcement officers across two study sites (Wood et al., 2017a). Law enforcement study participants shared their perspectives on using video technology – both handheld and body-worn – in documenting and assessing family violence incidents. Their recommendations are included in this section to inform the development of video programs, investigative practices, ongoing training, and collaborations with prosecutors and victim advocates.

1. Background and Overview
- 2. Guidance for Law Enforcement**
3. Guidance for Prosecutors
4. Guidance for Victim Advocates
5. Technology and Equipment Guidance
6. ReVEAL Summary Report
7. Appendices

Purpose of Taking Video Statements 2.1

In Texas, some law enforcement officers take video-recorded statements following a family violence incident to supplement written statements and obtain a thorough and accurate account of events. These video statements also provide an opportunity to visually document victims' emotional demeanor and injuries. Video evidence is also useful in cases where limited literacy or other barriers could make it difficult to obtain written statements from victims and other involved parties.

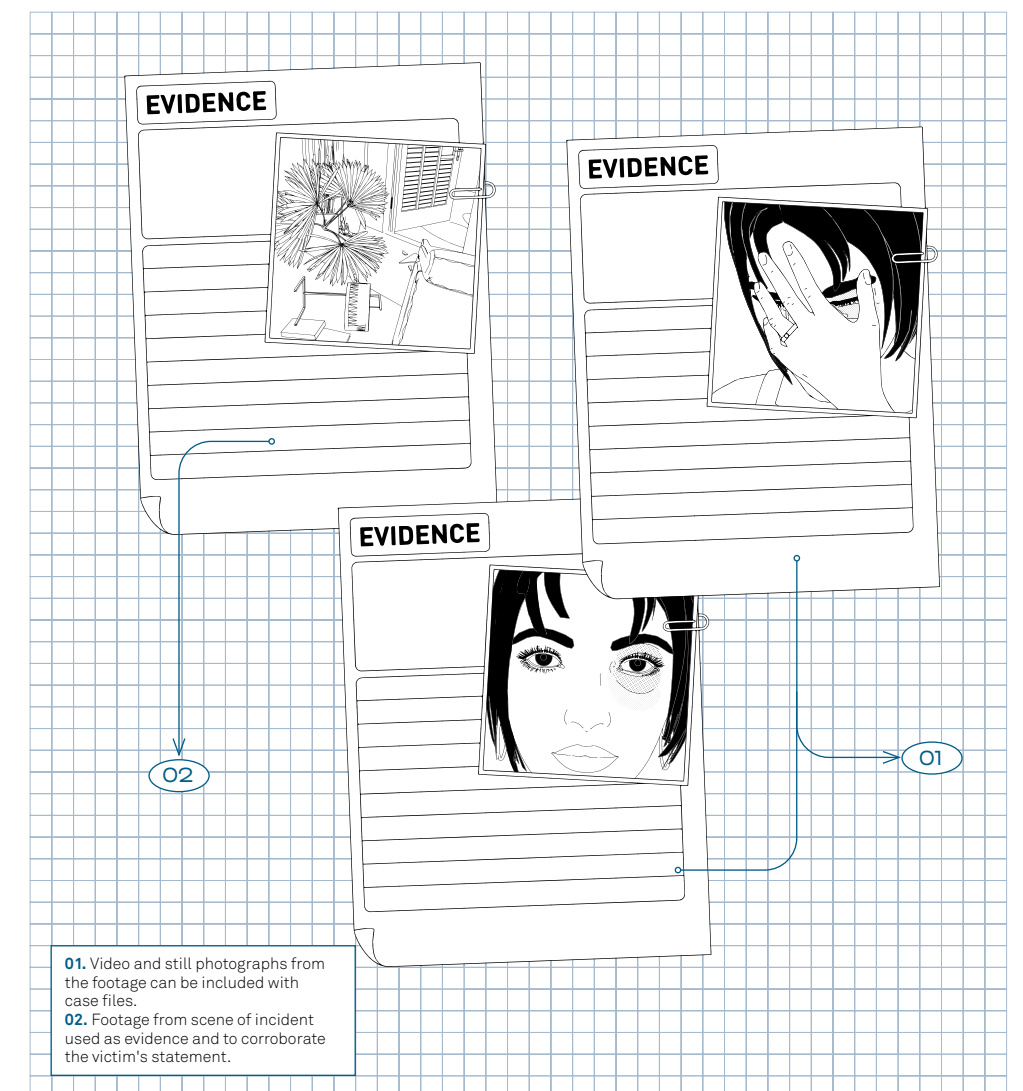


Video technology enhances law enforcement officers' ability to conduct a thorough investigation, capture a nuanced and accurate representation of an incident, and document critical case elements such as injuries and property damage (Wood et al., 2017b; Backes et al., 2019).

"[I]t's been very helpful because it does show the surroundings, the environment as it was when they got there and responded, the demeanor of the victim, children crying, and house turned upside down and stuff. That's very helpful to prove the case."
 - Detective

Law enforcement agencies commonly use video technology in several ways when responding to and investigating family violence incidents:

- ⊕ Videos provide a lasting snapshot of the scene.
"It may be three years before he gets to go to court and testify on this case. We may not have good contact with the victim for courtroom preparation. We've got that video that the prosecution can introduce and show how she was three years ago—how beaten she was or how frightened or what her demeanor was" - Officer
- ⊕ Officers use video footage as a refresher when completing incident reports. For example, officers may use videos to accurately describe injuries in the report.
"You can go back to the video and see it." - Officer
- ⊕ Videos may provide a more accurate representation of what occurred compared with a handwritten statement.
"A written statement, even though it's their statement, it's still us kinda paraphrasing what they say... But to me, video, it's exact. It's exactly what they said, the emotions they said it in. You can't relay emotions on a piece of paper..."
 - Sheriff's Office Deputy



At the Scene 2.2

Securing scene

Officers responding to a domestic violence incident are entering a risky and unpredictable environment that must be approached with caution and with concern for the safety of both officers and victims (Horwitz et al., 2011; International Association of Chiefs of Police [IACP], 2017a). Law enforcement agencies therefore emphasize officer and victim safety when developing policies and practices related to video-recorded statements.

In interviews, officers noted the importance of having their hands free and not having their movement limited by the presence of a video camera when they first arrive at a scene. While body-worn cameras are typically turned on from the moment officers arrive at a scene, officers will not hold or adjust cameras until they have made certain that all parties are safe and separated and that the scene is secure.

Engaging with Victims and Witnesses

Effectively engaging with victims and witnesses is critical to a thorough investigation of a family violence incident, whether officers obtain written or video-recorded statements. Video programs require special consideration for victim engagement and come with unique concerns regarding privacy, confidentiality, and safety. Some victims may be uncomfortable with video-recording and it is important to respect a victim's choice.

Victims should be provided with as much information as possible to make an informed decision. This can include information about how videos may be used, who can access video statements, and any relevant storage and retention policies. Clear policies and practices should be developed using resources such as the IACP's National Forum on Body-Worn Cameras and Violence Against Women and partners such as victim advocates or community orga-

nizations with expertise in victim engagement (IACP, 2017b). Victims may be particularly concerned with whether perpetrators will have access to video statements or their content.

Providing clear, up-front information may make a victim more comfortable with providing a video statement. Many victims expressed that they were glad to know a thorough and accurate account of the incident had been captured:

"I'm very grateful with the police that I have dealt with at the moment and I'm grateful for that audio or video that they took as well, because through those it shows proof that psychological sometimes affect us and when we go before the judge we lose track of time as well as what occurred at that moment. And thanks to that video it helps us remember what really occurred." - Victim

The Victim Advocate section of this Implementation Guide provides additional resources and guidance on this topic.

"I think you get the frustration factor because a lot of our victims minimize, they try to make it sound normal and stuff like that... I think [police] kind of get frustrated because they know something's going on there but they can't do anything unless we get something from that victim." - Victim Advocate

Prosecutors interviewed for Project ReVEAL expressed a desire to see more witnesses interviewed on video. Jurisdictions should consider expanding video protocols beyond victim statements to also include any witnesses present at the scene.

"I want you investigating how long has this been going on, what led up to this incident. We need the context of it, 'cause this is a crime that doesn't occur on its own... Things that we weren't seeing on the body-worn camera footage, we weren't seeing them interview witnesses... We emphasized to them that they need to interview every possible witness regardless of what they think they may or may not say..." - District Attorney

Guidance on obtaining video-recorded statements from both victims and witnesses should address particularly sensitive circumstances, including:

- ⊕ Victims or witnesses under the age of 18;
- ⊕ Victims or witnesses that may not be able to consent to video-recording due to language proficiency, mental health issues, intoxication, or other barriers; and
- ⊕ Locations with unique privacy considerations such as a hospital or other medical facility (IACP, 2017b).

Investigative Procedures

"That's how this camera helps. That camera helps us do our job to the best of our ability, which can help [prosecutors] get better convictions." - Police Sergeant

Investigative procedures and video practices vary from site-to-site, and may differ depending on whether officers use body-worn or handheld camera technology. At Site One, as soon as a case is determined to be family violence, officers follow a protocol of letting victims and involved parties know they will record and take photos. They follow a standardized set of questions (see [Appendix D](#)) and typically obtain consent from victims prior to recording.

An officer at Site Two described a similar practice:

"[Y]ou get there, once you start recording, you ask the victim if she's willing to provide a verbal statement. If she says yes, then we start recording and then she tells us – we tell her to start with her name and date of birth. From there, she tells us exactly what happened in detail. Then, we also record the scene, her demeanor, and all of that stuff. Then, we end it with our name and pretty much that's it." - Officer

Some officers do not always notify victims that video footage is being recorded, citing Texas one party consent laws (Texas Penal Code § 16.02) and concerns about making victims uncomfortable. Jurisdictions should consider the issues outlined in the Engaging with Victims and Witnesses section of this guide to craft clear and consistent policies about the information provided to victims about video statements. While practices varied across ReVEAL study sites, officers consistently discussed a need to effectively engage with victims when obtaining a video-recorded statement without causing fear or discomfort.

Officers use video technology at the scene in different ways depending on their investigative approach, agency policy and procedures, the type of video camera used, and other factors. In addition to capturing victim and witness statements, video cameras can be used to show the physical environment in which an incident occurred, including any property damage.

"What better to describe that than the video? I can be an award-winning author, and nothing can describe it better than seeing with your own two eyes what this guy was doing." - Sheriff's Office Deputy

Body-worn vs. Handheld Camera Comparison

Body-worn cameras



Handheld cameras



- 01 Captures initial impression of scene while giving officers full range of movement to respond to incident.
- 02 More likely to capture excited utterances, a type of statement that can be admissible in court.
- 03 May be inadvertently placed too high or too low in relation to the victim, or covered by a clipboard or other object.

- 01 More clearly focused on person giving statement.
- 02 Easier to zoom in on injuries or other specific case elements.
- 03 Requires time for camera set-up and placement, which can only occur after scene has been secured.
- 04 Footage is primarily limited to victim and witness statements, making it easier to tag or label compared to sifting through lengthy body camera footage.

The Technology and Equipment considerations of this guide gives a thorough overview of the different kinds of camera technology used in family violence investigations, and the Body-worn vs. Handheld Camera Considerations Table gives a brief snapshot of some of the differences between body-worn camera technology and handheld cameras.

Developing and Refining Questions

All of the sites participating in Project ReVEAL used some form of questions to guide victims providing a video statement. Site One initially developed a question protocol that is now used in other Texas jurisdictions (see Appendix D for a sample). However, jurisdictions should work together to refine question protocols with consideration for the following:

⊕ **Family violence:** Questions developed for the purpose of obtaining a video-recorded victim statement should address specific indicators that are relevant to family violence cases and should gather information helpful to law enforcement and prosecution in making charging decisions. Several of the jurisdictions in this project also conducted domestic violence risk assessments or administered supplemental protocols related to strangulation and inju-

ry. Ongoing training and communication between prosecutors and law enforcement agencies can help ensure that question protocols are thorough and capture all of the case elements needed to prosecute a family violence case. This should include specific instructions for the use of cameras; for example, guidance might include detaching a body-worn camera (if it has that capability) and using it as a handheld device to capture close-up footage of injuries, damaged property, or for taking a statement with the victim and witnesses fully in focus.

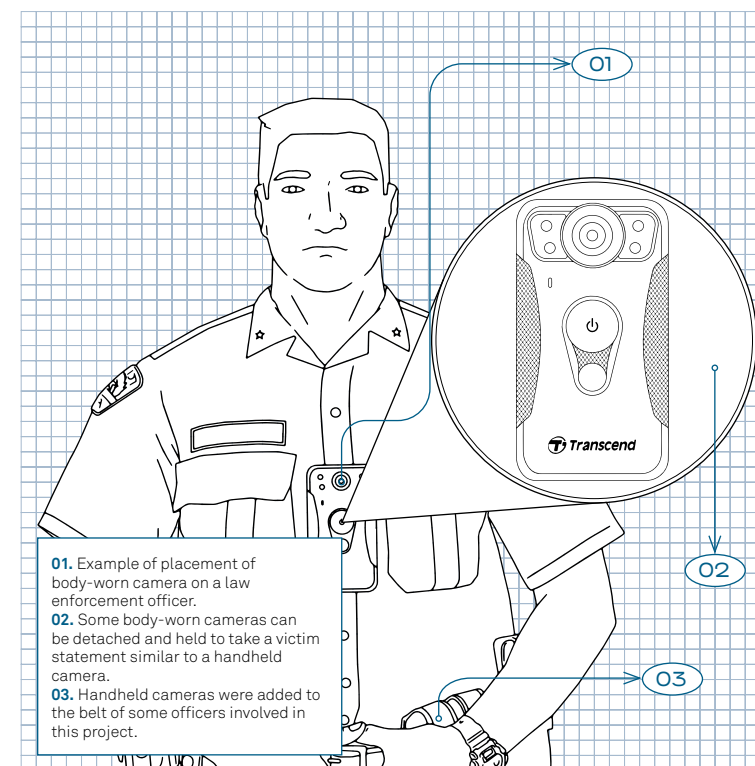
- ⊕ **Camera technology:** Body-worn cameras and handheld cameras each come with their own unique set of considerations. Protocols must be tailored to the video technology used in the jurisdiction and should be updated when jurisdictions transition from one camera type to another. For example, protocols that accompany the use of body-worn cameras should include guidance on camera placement to ensure a clear image of a video statement.
- ⊕ **Privacy and consent:** Protocols that are used to obtain video-recorded statements must consider any relevant local, state, and federal laws related to privacy and recording technology. The Texas Commission on Law Enforcement summarizes items that

Promising Practices

- ⊕ **Collaborative case review:** Site One engages in collaborative weekly meetings to review family violence cases, which provides an opportunity for ongoing feedback on the evidence collected in family violence investigations. Site Two piloted a similar program for one year in which law enforcement and prosecutors met regularly to review family violence cases.
- ⊕ **Victim advocate input:** Many of the sites participating in the evaluation had victim advocates on staff who informed policy and practices within the agencies. For example, one site had a victim advocate who trained officers on administering lethality assessments that proved helpful in making decisions on providing assistance to victims both at the scene and in subsequent follow-ups.
- ⊕ **Interagency partnerships:** Smaller police departments may consider meeting with other agencies in their area to determine what resources they find valuable and used most frequently, and, when possible, redistribute equipment. Site Six found an opportunity to move video-recording equipment from one police department to another as a result of a conversation at an interagency meeting. This saved the department the additional time and funding for securing more cameras, which would have been a burden to the small department.
- ⊕ **Coordinated responses:** Site Five created a high-risk response team as part of a coordinated community response to domestic violence in their county. It provided opportunities in cross-training and agencies provided input on protocols and practices for domestic violence. Regular meetings enhanced partnerships and case review addressed ongoing gaps in responses to domestic violence.

must be included in body-worn camera policies under state law. Policies should include guidance for law enforcement when victims decline giving a statement or ask not to be videotaped. In this project, some sites consistently asked for consent, while others – typically those using a body-worn camera – had the camera running while administering the questions for obtaining a victim statement.

⊕ **Victim engagement:** As noted in the previous section, providing victims with information upfront can help them feel more comfortable giving a statement. Victim advocates can be a partner in tailoring question protocols to address issues of victim engagement. Clear explanations on the purpose of a video statement can be helpful and may assist in establishing trust between the victim and the responding law enforcement officer. Agencies should consider development of a guide or information to provide to victims and witnesses related to how video statements and footage may be used moving forward. This includes information on who will be accessing the video footage, how it could be used in a case, how long it will be retained, and how people can obtain a copy.



“It’s just training. Just repetitive, ask them the same questions over and over every time you go. Even if it’s just a regular assault between two friends, you still need as complete an investigation as possible, so you wanna know how did they hit you? What hand did they use? Was it open or closed? Where did they hit you? Things like that, so when it goes to court, if we just put, “They hit me,” and we go to court, well, how did they hit you? “I don’t know, that was three years ago. I don’t know.” So, that’s why we ask those questions so when it does go to court, it may have been 3-4 years ago, but you stated they punched you on the right side of their face with their left closed fist. So, it’s a more complete report for when and if it does get to the court stage.” - Sherrif’s Office Deputy

Training and Refreshers

2.3

All sites involved with Project ReVEAL received some level of training from state agencies and other jurisdictions actively involved in using cameras to collect victim statements. While this initial training was critical to the adoption of the video practice, continued training is necessary to maintain the consistent use of video evidence and expose new officers to the practice.

Additional trainings can take the form of refreshers, simple updates during roll calls, or more intensive in-service trainings. Ongoing training keeps officers up-to-date on the technology and software used to collect, transfer, and store video evidence. It ensures the effective collection of victim video statements as jurisdictions adopt new equipment, for example when a law enforcement agency transitions from standalone handheld cameras to body-worn cameras. Trainings can provide an opportunity to strengthen partnerships between law enforcement agencies and prosecutors and ensure that video evidence is transferred efficiently. Ongoing training also reinforces the importance of question protocols for taking victim video statements. As noted in earlier sections of this guide, some officers attempted to memorize the questions typically used to take a video victim statement and others did not follow the question protocol as intended. As a result, some items that could have been critical to charging decisions and prosecution were missed. Other officers carried the questions with them or with the video equipment and one law enforcement agency embedded the questions into their domestic violence risk assessment protocol. Ongoing training can establish and maintain best practices so that officers consistently gather the information prosecutors need to carry family violence cases forward.

“Every officer does it different, the interview. Some do ask the correct questions, but others miss one here or there.” - Detective

Participants in this project spoke openly about the training offered, subsequent implementation of the practice, and continued fidelity of the practice in the field. The law enforcement officers, attorneys, and victim advocates the research team spoke with offered several recommendations for ongoing training to support jurisdictions using video evidence in family violence cases. Recommendations were offered on both the format and content of video practice training.

Recommendations for Training Content

Law Enforcement Recommendations

- ⦿ **Dynamics of domestic violence:** Officers would like to gain a deeper understanding of the dynamics of domestic violence. This is particularly important for officers who are new to the police force or new to domestic violence cases. *“I think the psychology of what a victim goes through is training that we could all use more of”* - Officer
- ⦿ **Engaging victims:** Additional guidance on engaging victims, building trust, addressing possible feelings of intimidation or discomfort that victims may have at the idea of giving a video-recorded statement.
- ⦿ **Special consideration for body-worn cameras:** Several jurisdictions involved in the study used or were in the process of rolling out body-worn cameras to patrol staff. Many officers expressed a preference for body-worn cameras over handheld cameras, but noted the special considerations for using body-worn cameras to take victim statements:
 - ⦿ Placing the camera lens at an appropriate height or holding it to capture a steady view of the victim’s face and any injuries
 - ⦿ Ensuring that the lens is clean and free of any debris or interfering objects like a clipboard prior to beginning interview
 - ⦿ Some had cameras that were removable and could mimic a handheld camera if needed once the scene was secure, which officers found particularly helpful
- ⦿ **Storage and transfer of video evidence:** Ongoing training on administrative procedures such as storage and transfer of video evidence. At some sites, inconsistent policies and practices for storing and transferring video evidence have caused delays in investigation and led to confusion. Read more about this in section five on Technology and Equipment.

Prosecutor Recommendations

- ⦿ **Victim question protocols:** Thorough initial training and ongoing follow-up refreshers to ensure that victim question protocols are followed and used effectively. Timing is important and it is recommended that refreshers occur every six months with more intensive trainings every two years.
- ⦿ **Interviewing witnesses and offenders:** Family violence cases can be complex and on-scene dynamic vary greatly from incident to incident. Prosecutors often wanted witnesses interviewed on video in addition to victims. Critical information can be lost when witnesses do not provide a statement immediately. *“In the past, with law enforcement, they would hand those witness statements. Like, oh, you’re a witness? You’re a witness? All right. Everybody fill those out. And so as that witness, I’m gonna write what is important to me or that I think you, as an officer, want. Where with these cameras, that officer’s asking some questions. Um, they don’t have to ask every question. And they won’t have to go question to question. They can deviate from it. But they’re actually investigating what took place. They’re getting some of the history, some of the context”* - District Attorney
- ⦿ **Specific indicators to look for and how to document them:** Training opportunities for officers to learn what information is most helpful to prosecutors.
 - ⦿ When officers go off script it may or may not be helpful to prosecutors. Question protocols are designed to assist prosecutors in effectively charging offenders and enhancing prosecutorial opportunities.
 - ⦿ Prosecutors discussed the possibility, with permission from law enforcement, of showcasing videos for training purposes. A prosecutor can highlight helpful tactics used by officers and also point to missed opportunities when obtaining statements.

Victim Advocate Recommendations

⊕ Explaining the criminal justice process and uses of video evidence to victims:

Advocates discussed cases where victims were upset about the use of video evidence, frustrated with the length of criminal-justice process, and confused about next steps. By setting up realistic expectations, one advocate noted that victims are more empowered and better prepared: *“I think when you explain that to them, it helps them not get so frustrated with the process because you’re finally making that step to reach out and ask for help, and then it takes, you know, 8 to 10 months for maybe it to get prosecuted. And so, it’s very frustrating. We see that for our victims. So, um, setting them up with that expectation from the beginning... I think it allows them to better prepare themselves so they’re not just sittin’ there spinning their wheels”* - Victim Advocate

⊕ The difficulty detecting certain injuries:

Advocates discussed details that are often missed in the initial investigation, but critical to include to assess safety and for charging decisions. Ongoing training should address challenges in visually identifying injuries that restrict airways such as strangulation or choking. A strangulation protocol or questions can be incorporated into current responses by law enforcement.

Recommendations for Training Frequency and Format

Both law enforcement officers and prosecutors believed trainings for law enforcement are most effective when they are conducted or co-facilitated by other officers. Recommendations included joint trainings co-facilitated by prosecutors and officers, or a “train the trainer” approach that allows more experienced officers to train other officers. Officers also recommended bringing in victim advocates to provide brief training updates during routine meetings: *“we found that those little 20, 25-minute trainings sometimes go farther than having them sit in a class for 8 hours.”*

Trainings should, at minimum, follow the annual cycle of onboarding new officers. Some officers would like to see quarterly trainings. Suggested formats ranged from online webinar-style trainings that officers can fit into their unpredictable schedules to small group training allowing for discussions. However, as officer turnover occurs and new officers are onboarded, additional trainings may be necessary. Each department should work with their local district attorney and advocacy groups to create a schedule, format, and content for ongoing training that meets the unique needs of the jurisdiction and its law enforcement agencies.

Additional Study Needed 2.4

This project provided preliminary information on the utility of cameras in taking statements from victims and witnesses. Further research is needed as video technology evolves and more jurisdictions transition to body-worn cameras. For example, this study initially sought to examine video statements through handheld cameras, yet multiple participating sites moved to body-worn cameras during the course of the project.

Victim engagement, privacy, and safety emerged as key themes in this study, and should continue to be explored in future research on video evidence used in family violence cases. In particular, further evaluation is needed of procedures for consent and confidentiality. This research should extend to considering best approaches to obtaining video evidence from child victims and witnesses. Although this study did not examine child witnesses, the topic did arise during interviews with the stakeholders on this project.

Jurisdictions should continue to develop and share training practices, question protocols, and ways to promote collaboration between agencies. Future research should continue to evaluate these practices and share promising approaches. Existing policies related to body-worn and other cameras should be examined for their application to specific incidents such as family violence.

"We only gave the cameras to a couple of officers, to test it. Once we realized, 'Okay, this is really a good thing we're doing,' we started training every shift of officers, and we would not stop until every single officer was trained."

– Prosecutor

References 2.5

Backes, B., Wasim, A., LaMotte, J., Kammer-Kerwick, M., Wood, L., & McDonald, M. (2019). *Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL) 2.0: Case Characteristics and Initial Impact*. [Interim Report]. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault.

Horwitz, S. H., Mitchell, D., LaRussa-Trott, M., Santiago, L., Pearson, J., Skiff, D. M., & Cerulli, C. (2011). An Inside View of Police Officers' Experience with Domestic Violence. *Journal of Family Violence*, 26(8), 617–625. <https://doi.org/10.1007/s10896-011-9396-y>

International Association of Chiefs of Police (IACP). (2017a). Intimate Partner Violence Response: Policy and Training Content Guidelines. Retrieved from: <https://www.theiacp.org/sites/default/files/all/i-j/IACPIntimatePartnerViolenceResponsePolicyandTrainingGuidelines2017.pdf>

International Association of Chiefs of Police (IACP). (2017b). National Forum on Body-Worn Cameras and Violence Against Women. Retrieved from: <https://www.theiacp.org/resources/document/national-forum-on-body-worn-cameras-and-violence-against-women>

Texas Commission on Law Enforcement. (N.d.). Body Worn Camera Policies. Retrieved from: <https://www.tcole.texas.gov/content/body-worn-camera-policies>

Wood, L., Wasim, A., Busch-Armendariz, N., Kammer-Kerwick, M., Bassett, M., & Kellison, B. (2017a). *Methods Report: Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL): Determining Efficacy, Cost Efficiency, & Impact on Outcomes*. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault. Retrieved from: <https://sites.utexas.edu/idvsa/files/2019/03/ReVEAL-Methods-Report-formatting.pdf>

Wood, L., Wasim, A., Busch-Armendariz, N., Kammer-Kerwick, M., Bassett, M., & Kellison, B. (2017b). *Project ReVEAL: Preliminary Findings Report*. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault. <https://sites.utexas.edu/idvsa/files/2019/03/Project-ReVEAL-Preliminary-Findings-Report.pdf>

Page intentionally left blank

Project ReVEAL:

Guidance for Prosecutors ³

24

1. Background and Overview
2. Guidance for Law Enforcement
- 3. Guidance for Prosecutors**
4. Guidance for Victim Advocates
5. Technology and Equipment Guidance
6. ReVEAL Summary Report
7. Appendices

³ An exact count is not provided because a small number of participants were either interviewed during multiple project phases or participated in both a focus group and individual interview.

The ReVEAL evaluation was possible largely thanks to efforts by prosecutors in counties throughout Texas whose commitment to improving outcomes in family violence cases contributed to the adoption and implementation of video evidence programs.

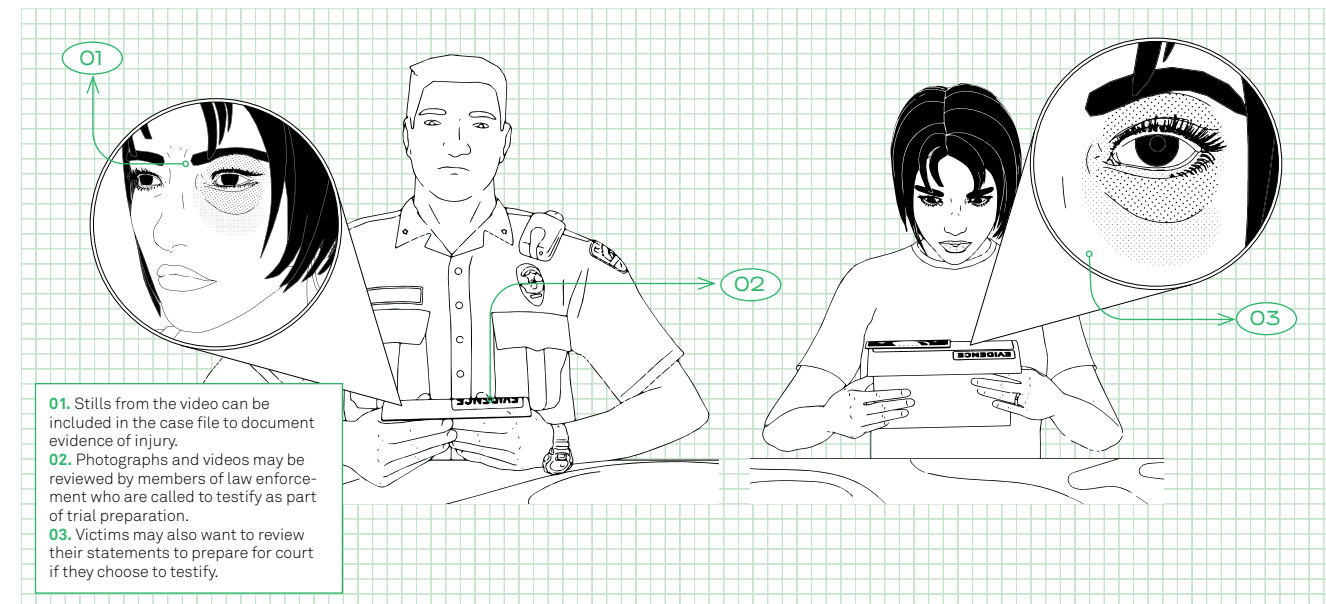
Video evidence is a valuable tool for prosecutors at every stage of a family violence case. Prosecutors use victim statements and other video evidence to inform initial case assessment, charging decisions, negotiations with defense attorneys, and trial preparation. Over the course of this project, the research team conducted interviews or focus groups with over 35 prosecutors from six counties across Texas who shared their perspectives on using video as part of their prosecutorial strategy.³ Their recommendations are included in this section to inform improvements to video practice and offer considerations for using video as a tool for prosecuting family violence cases.

25

Purpose of Reviewing Video Statements 3.1

Family violence cases can often be the most complex and difficult cases to navigate. Prosecutors face numerous challenges in holding offenders accountable, including victim engagement and limited evidence. Victims may be reluctant to participate in the prosecution of their current or former partners due to a variety of reasons, such as fear of retaliation or financial dependency on the accused (Buzawa & Buzawa, 2003; Dowling, Morgan, Boyd, & Voce, 2018; Robinson & Cook, 2006). There may also be limited evidence and few-to-no witnesses to provide context for the severity of the assault. Yet, family violence cases make up a significant proportion of all criminal cases prosecuted in Texas. In 2017, the Texas Department of Public Safety documented over 195,000 family violence incidents (Texas Department of Public Safety, 2017). Prosecutors increasingly use video evidence in Texas to understand the severity of family violence crimes and to inform their legal strategy in family violence cases. While legal barriers limit prosecutors' ability to admit video evidence in court, prosecutors routinely use video evidence to determine initial charges; negotiate with defense attorneys; prepare law enforcement, witnesses, and victims for testimony or trial; and obtain photographic stills or brief audio/video clips for inclusion in trials.

Prosecutors also have to balance high caseloads with making accurate legal assessments for each case that comes across their desk. Video evidence can provide a snapshot of the aftermath of a family violence incident, including a thorough victim statement and overview of the scene of the crime. The preliminary findings from this study suggest that video can enhance case assessment, inform charging decisions and prosecutorial strategy, and move cases forward (Wood et al, 2017b). Prosecutors leverage video evidence in plea negotiations and trial preparations. (Wood et al., 2017b).



Benefits to using video evidence in Case Assessment include:

- ⊕ Richer, more detailed victim statements that are not limited by language barriers or writing ability
- ⊕ A thorough overview of the scene to provide a deeper understanding of factors that may be important for case assessment
 - ⊙ Damaged property such as overturned tables, holes in the wall, or broken phones
 - ⊙ Floorplans or layouts that match victim, defendant, or witness statements
 - ⊙ Potential weapons that were used or described in the narrative of a report
- ⊕ Ability to identify potential witnesses for follow-up
- ⊕ Ability to compare statements made by victims, offenders, witnesses, and other parties in order to verify the facts in the case.

“I like being able to then get up in closing argument and be like, ‘Hey, look at what she said here in court and what she said back then, and look at how consistent those statements were.’ Then like to be able to point out, ‘Her statement’s remained consistent this whole time, and then we have this defense over here who the defendant at the scene said nothing happened. He didn’t do anything. Then later, he said it

was self-defense, and then we’ve had all these arguments here in trial.’ think that’s probably been the biggest help is to be able to show, hey, for years now, a victim has been able to maintain a consistent story”

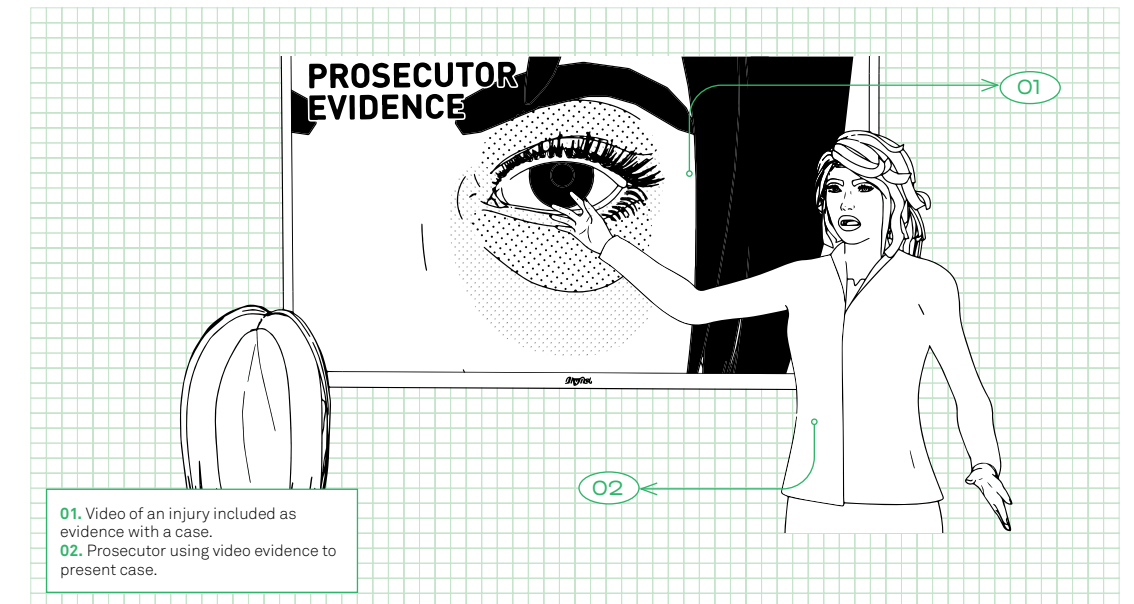
- Assistant District Attorney
- ⊕ The emotional and physical state of the victim in the case

“[N]ot just a lot more information, but it’s more raw, emotional type information. That can have a huge impact and difference”
- Prosecutor
- ⊕ Videos can include the defendant’s demeanor and any erratic behavior by the defendant

Benefits to using video evidence in Building a Case include:

- ⊕ Video evidence can help establish a pattern when it includes more information about family violence history compared to a written statement

“Any time I review a case, I always look to see if there’s a video statement. What I’ll do is read the report. And, I’ll go back to the video statement to see if she said anything different in her video statement. Sometimes they will be asked by police officers if there have been any previous assaults. And, that information won’t be included in the report.



When I go into the video statement, that information and the details of any previous assaults will be included in that video. That's helpful for me because that gives me a little bit of insight into the relationship of the victim and the defendant. It gives me insight as to previous assaults.” - Prosecutor

- ⊕ Evidence of injury either in the recordings or captured with still-frames from the video

“...you see the pain. You see the distraught. You see how scared they are. Having a freeze-frame photo that we introduce of that has been very powerful. And so we have done that. And those are incredible in front of a jury.” - District Attorney

Benefits to using video evidence to **Move Cases Forward** include:

- ⊕ Strong negotiating tool that can be used with defense attorneys or to remind victims of their experience of the event.

- ⊕ If a victim begins to recant or change their story, video footage can be a powerful reminder of their emotional state and fear at the time of the incident

- ⊕ Victim statements taken by video are less likely than written statements to be challenged by defense attorneys as being coerced (e.g. victim writing what officer says to write)

“Sometimes I would have cases as a defense attorney where the defendant and the victim would come to my office together, and they're trying to get the case taken care of, and the victim would say, 'I didn't say that. I never said that. I didn't write that down.' They would change their story, that they [police] told me to write that down, they told me that's how they had to say it. Here, it's coming from the person's mouth. No one's forcing them to say anything. They're just asking questions, and they're volunteering the information, so that's even better. That corroborates more of what occurred.” - Prosecutor and former Defense Attorney

- ⊕ Contributes to plea deals, which has a time-saving, and possibly cost-saving, effect by avoiding lengthy trial processes

- ⊕ While video offers a useful tool for prosecutors, defense attorneys also suggested videos play a key role in their decision-making and negotiation strategy.

“Yeah. I mean, I would say the cost savings are that cases are pleading [out] and then, perhaps, hopefully, people are going to BIP [Batterer Intervention Program] or whatever and they're not going back to the same place. They're not having to come up here and testify and take off a day of work and have somebody else come in. I mean, they can be up here for two or three days if we've got a trial going on and they're subject to recall. There could be some savings there.” - District Attorney

Ultimately, the value of the video is going to depend on a jurisdiction's approach to video evidence. Prosecutors largely preferred the use of handheld cameras in obtaining video victim statement and assessing crime scene damage. However, some felt body-worn cameras provided more information on potential witnesses and initial demeanor of victims and offenders. Law enforcement largely preferred solely to use their body cameras due to the hands-free approach and ease of use, but body-worn camera footage is often lengthier and more time-consuming to review and may not capture injuries and other elements as clearly depending on camera placement. Therefore, it is important that jurisdictions work together to develop policies and procedures for capturing video victim statements in an effective manner for all involved.

Case Study → Site 01

Site One has a long-standing effort to capture victim statements through handheld cameras. The success of their program, not only in case outcomes, but in coordination between criminal justice entities took time and dedication. As a larger metropolitan jurisdiction, Site One has been able to dedicate more resources to the technology, staff, and infrastructure needed to establish and maintain a video practice. The District Attorney's (DA) Office has a history of collaboration with law enforcement agencies and engages in collaborative case review on a regular basis. Family violence is a key priority for the DA and the County maintains a specialized prosecution unit for family violence cases. Site One first implemented a video practice over seven years ago and expanded it gradually over time. The Site One DA's office holds regular meetings, usually on a weekly basis, to review family violence cases, including video statements. They also send a team to follow up with victims within 24-48 hours following an incident. Law enforcement officers follow a protocol established to collect video-recorded victim statements following a family violence incident, and they securely transfer videos along with other case evidence wirelessly to an electronic case portal accessed by the DA's Office within 24-48 hours of arrest. This allows prosecutors to rapidly assess cases and provide copies of evidence to defense attorneys in a streamlined discovery process.

Regardless of the presence of video evidence, common barriers continue to exist across the components of the criminal justice system. Barriers were common across all counties evaluated in this project and all were actively seeking solutions to address barriers in communication and case processing. Common barriers include:

Barriers ⊗

- 01 Length of time for report to reach prosecutors
- 02 Lack of communication about new or pending cases
- 03 Law enforcement and prosecutors unable to transmit video evidence electronically or continue to rely on paper files
- 04 Length of time to view videos
- 05 Legal barriers to using video statements as evidence in court

Solution Sought ✓

- 01 Investment in technology to facilitate digital storage and efficient transfer of video evidence
- 02 Increasing collaboration between prosecutors and law-enforcement through joint trainings, prosecutors doing ride-alongs with patrol officers, multidisciplinary teams, and other relationship strengthening strategies
- 03 Improved protocols for labeling video files and tagging key timestamps such as the start of a victim interview
- 04 Increasing opportunities for prosecutors across the state to share legal strategies and case law updates

Legal Considerations, Case Law, and Exceptions 3.2

As counties establish practices for collecting and using video evidence, they must consider relevant federal and state laws, case decisions, and regulations. This section highlights several legal considerations and limitations that inform the use of video evidence; however, as technology evolves and the use of video evidence expands, prosecutors will need to navigate a changing legal landscape. Further research is needed to explore whether there are differences in how these legal considerations apply to different types of footage, for example videos taken with body-worn cameras, dashboard cameras, handheld cameras, or footage captured on a witness' cell phone. Many of the prosecutors interviewed for Project ReVEAL expressed an interest in finding opportunities to share legal strategies, case law updates, and promising practices in using video evidence in family violence cases.

One Party Consent: The Texas Penal Code § 16.02 allows communication to be recorded as long as one party to the conversation consents to the recording. This leaves jurisdictions to establish procedures for notifying victims of a video recording, obtaining consent to video record a statement, and addressing sensitive issues such as the presence of children. While officers may not be legally required to obtain victim consent before recording a statement, jurisdictions should consider critical issues like victim engagement, privacy and confidentiality, and victim safety when establishing procedures for collecting video evidence.

Hearsay: The Texas Rules of Evidence regulate the use of evidence in Texas Courts. Rule 802 prohibiting the use of hearsay is particularly relevant in assessing whether video evidence can be used in criminal proceedings. Hearsay is defined as a statement made outside of a trial or hearing that is presented as evidence. The Texas Rules of Evidence do allow some exceptions, however, such as “excited utterances” made in reaction to “a startling event or condition.”

“...what I’m doing here, is looking for any excited utterance, statements, or anything like that at the beginning of the video that we might be able to get in.” - Investigator for the District Attorney’s Office

"You can tell, on body-cam footage, whether somebody is in that excited state of mind that the law says is necessary to be able to have a hearsay exception. Let's compare it to just audio even. Being able to see the person's gestures would help to determine whether or not they truly were uttering an excited utterance. I could see it would probably be helpful for that purpose."
– Defense Attorney

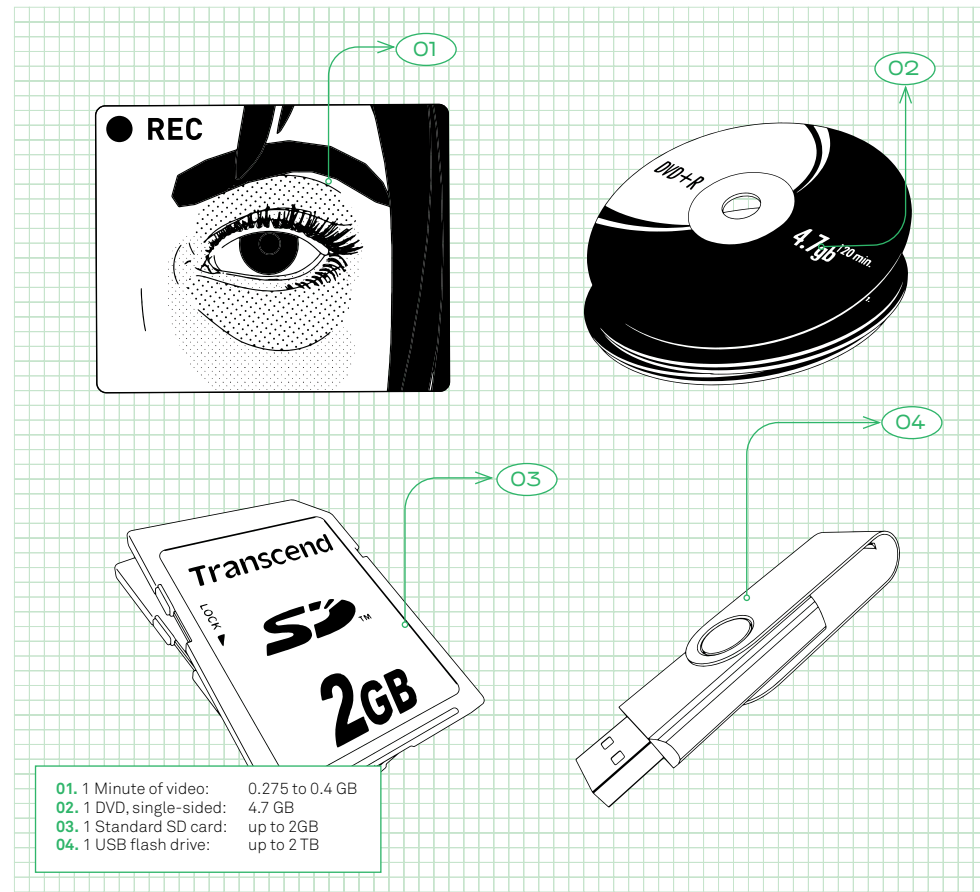
"...does the victim have visible injury on them from the body cam? I mean, that's not hearsay if we don't turn on the volume." - Assistant District Attorney

Crawford and Davis Supreme Court

Decisions: A federal Supreme Court ruling, *Crawford v. Washington* (2004), further limits the admissibility of statements that could be considered hearsay. According to the *Crawford* ruling, the Confrontation Clause of the Sixth Amendment, which gives defendants the right to confront witnesses against them in criminal proceedings, bars “the admission of ‘testimonial hearsay’ in criminal prosecutions” (Levanthal & Aldrich, 2006, p. 77). *Davis v. Washington* (2006) builds on the *Crawford* decision by attempting to clarify the types of hearsay evidence that are considered “testimonial” (Shanes, 2009). Testimonial statements can include police interrogations, depositions, affidavits, and past trials (Shanes, 2009). In defining testimonial hearsay, the *Davis* court decision emphasized “the government’s purpose in obtaining out-of-court evidentiary statements for use in a later criminal prosecution” (Shanes, 2009).

In addition to seeking legal strategies to admit video footage as evidence, prosecutors are able to use videos in other ways such as taking video stills of injuries or property damage. Prosecutors also use videos to prep victims, officers, and other witnesses to testify during a trial. Further research is needed on how these regulations apply to different types of video evidence.

Policies and Process of Video Evidence 3.3



For a more a more detailed overview and recommendations on policies and procedures for video evidence, see the Technology and Equipment section of this Implementation Guide. The effective collection and use of video evidence is a collaborative process that involves multiple agencies: law enforcement departments, district attorney’s offices, and in some cases victim advocates. While jurisdictions recognize a need for clear and consistent cross-agency policies regarding the storage and transfer of video evidence, in many cases these policies are still being developed and refined. A national survey of state prosecutors revealed that logistical issues were among the biggest concerns prosecutors have regarding video evidence, including infrastructure and technology, issues of redaction, and processes for transferring video evidence (Merola, Lum, Koper, & Scherer, 2016). This section provides an overview of key considerations and practices for establishing policies and procedures related to video evidence for prosecutors.

Storage and Transfer of Evidence

Jurisdictions using video evidence must account for the significant storage needs associated with video files. The sites that participated in Project ReVEAL used either cloud-based online storage, digital files on a local server, hard-copy DVD files, or some combination of the three. In some cases, the video storage depended on camera technology. For example, videos taken with a body-worn camera can be several times longer than brief statements taken with a handheld camera, but some body-worn camera companies offer their own cloud-based storage options.

The infrastructure a jurisdiction has for storing video footage affects the speed and ease with which evidence can be transferred from law enforcement agencies to prosecutors. Jurisdictions implementing and maintaining a video program, whether they use handheld, body-worn, or other camera technology, should factor in the costs associated with securely storing footage and efficiently transferring evidence between agencies.

Policies and protocols are still emerging around issues of privacy and data security. Issues jurisdictions are working to address include the length of time videos can be stored, how video files should be destroyed, protection and encryption of video files, when and how videos can be requested and viewed, and how to address sensitive issues such as the presence of children in videos. The Texas Commission on Law Enforcement summarizes Texas Occupations Code requirements for body-worn camera policies and provides sample policies jurisdictions can adapt (Texas Commission on Law Enforcement, n.d.). New York University’s Brennan Center for Justice compiled a catalogue of publicly available police department policies on body-worn cameras, which compares policies with regard to the length of time video can be stored, processes for obtaining consent, public access to records, and whether an officer can view video before

making a report or statement (Brennan Center for Justice, 2019). The International Association of Chiefs of Police (IACP) also published an extensive list of considerations that emerged from its National Forum on Body-Worn Cameras and Violence Against Women (IACP, 2017).

Collaboration and Training

An effective video evidence program requires close collaboration between prosecutors and law enforcement agencies.

A strong relationship between agencies can ensure officers are fully trained to obtain video statements that are as useful as possible to prosecutors. Strategies such as joint trainings cofacilitated by prosecutors and experienced officers, and developing standardized victim question protocols, can help ensure that officers identify key indicators to document when obtaining a victim statement such as history of family violence or zooming in on injuries.

The partnership between prosecutors and law enforcement agencies also affects the speed and consistency with which prosecutors can review case evidence including video statements. DA offices emphasized the importance of documenting whether or not a video statement was obtained so that prosecutors can request any video footage they may not have been transferred. Several counties noted that aligning software and database systems across agencies can help facilitate more efficient transfer of video evidence.

"The biggest thing that would be really helpful is having everybody on the same system using the same sort of stuff." - Assistant District Attorney

Another strategy counties have explored to facilitate an efficient case review process is holding routine multi-agency meetings to review new family violence cases.

Prosecutorial Consideration for Victims and Families 3.4

Victim engagement, privacy, and security are all key considerations in establishing policies and practices concerning the use of video evidence. In many counties, these policies are still being established and interviewees expressed uncertainty about issues of victim privacy and consent related to video evidence. In a national survey on body-worn cameras, state prosecutors expressed concerns about how sensitive data is handled, procedures for redacting videos, and protecting the privacy of video subjects (Merola et al., 2016). Victim engagement is also an essential consideration as both prosecutors and advocates note the high rates at which victims seek either a complaint withdrawal or affidavit of non-prosecution. Interviews with both victims and victim advocates suggest that victims' experiences of giving video-recorded statements varied. Some victims were glad to know that a "thorough and accurate" representation of their story was taken, while others experienced fear or discomfort with the idea or experience of giving a video statement (Backes et al., 2019).

The [IACP's full list of considerations for body-worn cameras](#) and family violence can be found online at theiacp.org.

Many district attorney's offices and law enforcement agencies partner with victim advocates or victim counselors, who act as a liaison helping victims navigate the criminal justice process. Victim advocates are uniquely positioned to understand the needs and perspectives of both victims and prosecutors, and their input should be considered in developing policies and practices for engaging with victims when obtaining, reviewing, and using video evidence.

Many prosecutors use video evidence to refresh victims' memories of a family violence incident. In some cases, video is used to prepare a victim to testify during a trial, while in other cases prosecutors may show a video to a victim who recants or who no longer wishes to proceed with a case. District attorney's offices have developed strategies for engaging with victims, recognizing that re-watching a family violence incident can be traumatizing and cause distress. One prosecutor only shows videos to victims just before a trial – at "the very last minute." In another jurisdiction, victims are offered a comfortable, private space to watch the video and can choose to have a victim advocate present. Jurisdictions should continue to explore and share practices that address the traumatization and discomfort victims may experience when viewing video footage of a family violence incident (IACP, 2017). Victim advocates are an important partner in these efforts and can help district attorney's offices and law enforcement agencies in developing practices for engaging with victims.

IACP Recommendations

The International Association of Chiefs of Police held a [National Forum on Body-Worn Cameras and Violence Against Women](#) and produced materials providing policy and practice guidance to agencies and communities.

- ➔ **Legal considerations:** Jurisdictions should take into account state and local laws, as well as federal laws including the Freedom of Information Act (FOIA), the Health Insurance Portability and Accountability Act (HIPAA), and the Family Educational Rights and Privacy Act (FERPA).
- ➔ **Victim privacy and consent:** Victims should fully understand how and when videos may be used, for example if videos will be used in court or shared with the defendant. Victims should be informed about who can view video footage and should be given access to any footage in which they appear. Specific guidance should be developed regarding the use of body-worn cameras in sensitive locations, situations involving minors, and with victims or other parties who may be unable to consent to video recording due to intoxication, language barriers, disability, or mental health issues.
- ➔ **Training, oversight, and accountability:** All agency personnel should be trained on policies regarding video evidence. Clear and comprehensive policies should be accompanied by mechanisms for accountability and oversight.

"We'll grab a laptop, if we need to, a set of headphones to help them hear. Sit them down and let them watch it in privacy. Usually, we'll leave the [Victim Counselor] with them as they watch it just in case they have any issues or need to take a break or go anywhere else." – Assistant District Attorney

Prosecutorial Decision-Making and Trial Preparation 3.5

Video statements are becoming a critical part of the body of evidence prosecutors review when they assess family violence cases. The presence of a video statement can inform prosecutorial decision making leading up to a plea or a trial in a variety of ways. Video evidence can help prosecutors assess whether to accept a case for prosecution, enhance or reduce charges, establish patterns of family violence history, and determine an appropriate plea offer. As one prosecutor notes, video evidence often provides more information about the context in which an incident occurs:

“...a lot of times the video will not only talk about that incident, but other things... Is this somebody who, you know, just was blindsided, this is the first time this is happened... Or, is this somebody who is a victim, who has been abused repeatedly by this person, and cannot get out. Right? Because then we know, is this somebody who we generally have to go after because they are a chronic abuser, or is it somebody who lost their temper, was going through a lot, you know, we can maybe get them into some counseling and then move on from this.” - Prosecutor

Another prosecutor described initially deciding to put an offender on pretrial diversion based on conversations with the victim but changed course after viewing the video:

“After reviewing evidence, there was a video. What she told me was a complete lie. He beat her whole body. So, in that case, it didn’t matter what I told her. He was not placed on pretrial diversion. It does make a difference.” - Assistant District Attorney

Video can be a powerful tool for prosecutors in negotiating with defense attorneys, who typically review the videos during the discovery process. In the words of two prosecutors:

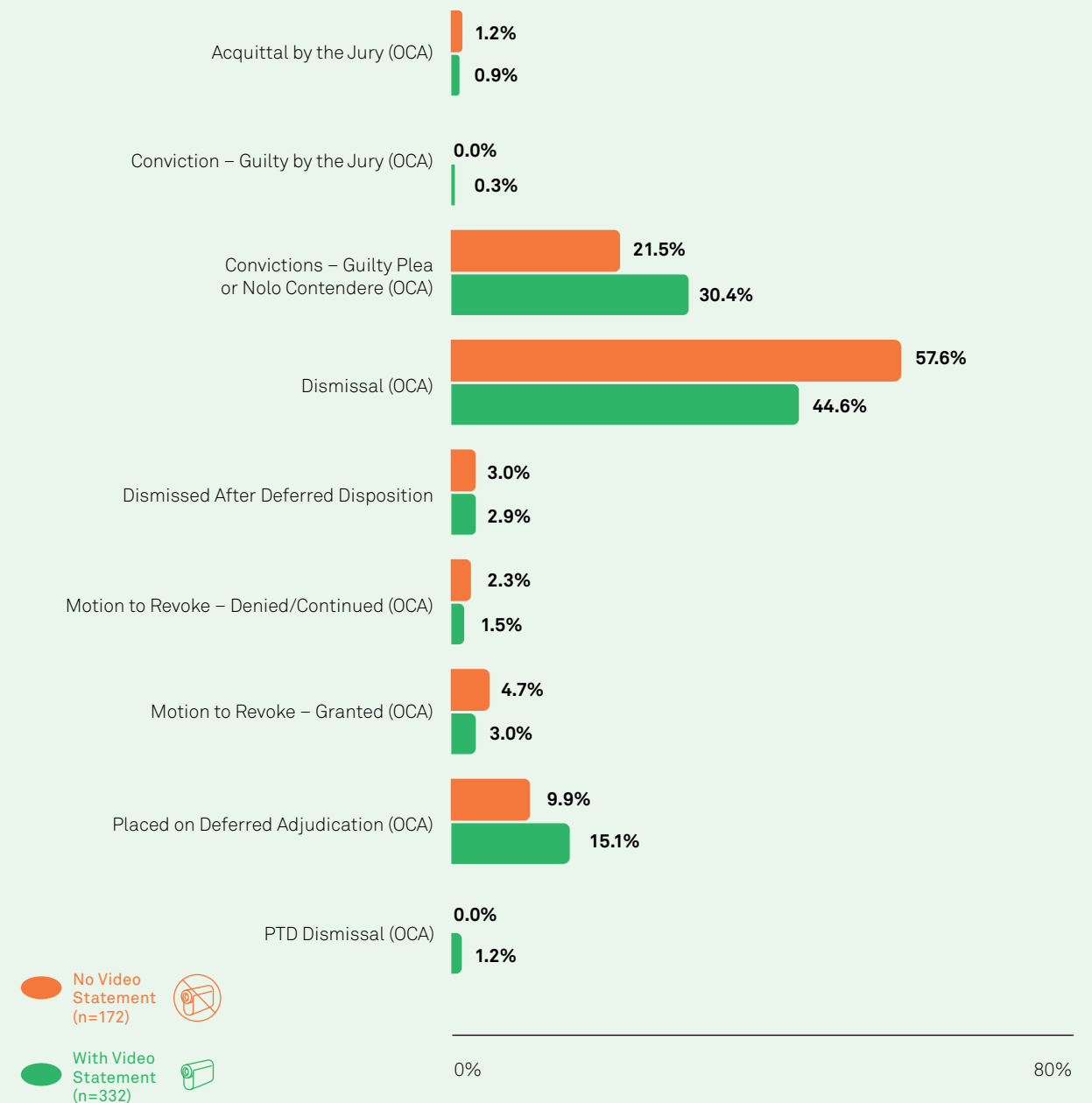
“It helps move the cases...If I’m able to bring [defense attorneys] more evidence, they’re able to lean on their client and say, ‘you need to take the deal the state’s offering.’” - Prosecutor

“...usually if I have a video and I file it, is because it’s strong. So, usually once the defense attorney sees a video, he’s gonna come to me – He’s not gonna negotiate. He’s gonna ask me what’s the offer.” - Prosecutor

Some prosecutors also note the timesaving, and possibly cost-saving, effects of video evidence, which is associated with more plea agreements and thereby avoids lengthy trials. Quantitative analysis of closed case data shows that cases with video evidence are resolved through a guilty or nolo contendere⁴ plea at higher rates compared with cases without video evidence (Backes et al., 2019; Wood et al., 2017b). Cases with video evidence are also dismissed at lower rates (Backes et al., 2019; Wood et al., 2017b).

Site One: Family Violence Case Disposition by Presence of Video Victim Statement (n = 500).

(Backes et al., 2019)



Trial Preparation

While legal barriers limit prosecutors' ability to use video statements as evidence in the courtroom, prosecutors often find creative strategies to use video evidence to prepare for trial in family violence cases. Prosecutors frequently use video evidence to prep victims, officers, or other witnesses to testify. When there is a lengthy gap in time between a family violence incident and the trial date, video evidence can help refresh an officer's memory of events or remind victims of their emotional state following the incident.

In some cases, prosecutors are able to use video evidence in court through various legal strategies. Prosecutors may be able to introduce a clip under an excited utterance hearsay exception, or may be able to use a video clip with the sound removed. Prosecutors also take video stills of injuries, property damage, or other case elements to use as evidence:

"So, it helps me paint a scene, and I've in turn found that it helps jurors also be right there in the moment with them. They can follow, and it's so much better than still photos because they're seeing it and living it." - Prosecutor

"...a lot of times, if they did take photos and they're not great quality or they're not enough, right? We'll take a look at the video as the second source of evidence. It also gives us a gauge of how severe was this particular incident."

- Prosecutor

Jury Expectations and Voir Dire

Increasingly, prosecutors also must navigate expectations among jury members that they will be shown some kind of video evidence. Some prosecutors see a need to educate jury members about the reasons why they are unable to show video footage. One prosecutor discussed addressing these expectations during voir dire:

"I try to really hammer in voir dire like, life is not CSI or Law and Order or anything like that. A lot of times, these assaults, they're not gonna happen in the middle of Walmart in front of a camera. That's just not the way real life works. I try to manage that a whole lot. I even do that in cases where we do have videos of statements and that sort of stuff. I try to manage those expectations, but I feel like there's always people that are kind of like, "Yeah, that should—it should be there," and that sort of stuff." - Assistant District Attorney

Even when prosecutors are able to introduce video evidence, parts of the video often need to be redacted. Redacted videos can jump from one scene or conversation to another and confuse jurors. Consequently, redaction processes may also need to be addressed in managing jury expectations.

"I think it's hard for jurors when they – they know that officers wear body cameras now, or they know that officers have cars that are equipped with video recording devices, and they don't see it. I think it kind of leaves them wondering, why don't I have this piece of evidence?" – Prosecutor

Additional Study Needed 3.6

Further research is needed to explore the breadth of applications video evidence can have as family violence cases move through the criminal justice system. Project ReVEAL focused on criminal proceedings, but some of the prosecutors and advocates interviewed noted that video evidence has occasionally been used in civil proceedings, particularly in obtaining protective orders. Given that many victims represent themselves pro se in protective order hearings, it is important that family violence victims be given information on how they can access a copy of video evidence related to their case.

Additionally, research is also needed to explore whether and how video evidence is being used or might be used in other parts of the criminal justice process. Potential applications that were not addressed in this research study may include assessing risk when setting bond or making sentencing decisions.

While this guide discusses emerging findings related to jury expectation and voir dire, more research is needed on the ways video evidence or lack thereof impacts jury expectations and decision-making.

As with any evolving technology, continued research is essential to examine the impact of video evidence in family violence cases over time. Many jurisdictions with a history of using handheld cameras are transitioning to body-worn cameras, and the use of video technology overall is rapidly expanding across law enforcement agencies. Agency policies and procedures; federal, state, and local regulations; and case law related to the admissibility of video evidence are all continuing to evolve in response to these changes. The findings and considerations outlined in this guide lay the groundwork for continued research on the role of video evidence in family violence proceedings.

References 3.7

Backes, B., Wasim, A., LaMotte, J., Kammer-Kerwick, M., Wood, L., & McDonald, M. (2019). **Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL) 2.0: Case Characteristics and Initial Impact.** [Interim Report]. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault.

Buzawa, E. S., & Buzawa, C. G. (2003). *Family violence: The criminal justice response* (3rd ed.). Thousand Oaks, Calif: Sage Publications.

Crawford v. Washington, 541 U.S. 36. (2004)

Cornell Law School (N.d.). Nolo contendere. *Legal Information Institute*. Retrieved from: https://www.law.cornell.edu/wex/nolo_contendere

Dowling, C., Morgan, A., Boyd, C., & Voce, I. (2018). Policing domestic violence: A review of the evidence. Research Reports, 13. <https://apo.org.au/sites/default/files/resource-files/2018/11/apo-nid204986-1183781.pdf>

International Association of Chiefs of Police (IACP). (2017). National Forum on Body-Worn Cameras and Violence Against Women. Retrieved from: <https://www.theiacp.org/resources/document/national-forum-on-body-worn-cameras-and-violence-against-women>

Leventhal, J. M., & Aldrich, L. (2006). The admission of evidence in domestic violence cases after Crawford v. Washington: A national survey. *Berkeley J. Crim. L.*, 11, 77-100.

Merola, L., Lum, C., Koper, C.S., & Scherer, A. (2016). *Body Worn Cameras and the Courts: A National Survey of State Prosecutors*. Report for the Laura and John Arnold Foundation. Fairfax, VA: Center for Evidence-Based Crime Policy, George Mason University.

Brennan Center for Justice (2019). Police Body-Worn Camera Policies. [Interactive Map]. New York University. Retrieved from: <https://www.brennancenter.org/our-work/research-reports/police-body-worn-camera-policies>

Robinson, A. & Cook, D. (2006). Understanding victim retraction in cases of family violence: Specialist courts, government policy, and victim-centered justice. *Contemporary Justice Review*, 9(2), 189-213.

Shanes, D.B. (2009). Confronting Testimonial Hearsay: Understanding the New Confrontation Clause. *Loyola University Chicago Law Journal*, 40, 879-910.

Texas Commission on Law Enforcement. (N.d.). Body Worn Camera Policies. Retrieved from: <https://www.tcole.texas.gov/content/body-worn-camera-policies>

Texas Department of Public Safety. (2017). Crime in Texas: Family violence. Retrieved from: http://www.dps.texas.gov/administration/crime_records/pages/crimestatistics.htm

Texas Rules of Evidence. (2015). Retrieved from: <https://www.txcourts.gov/media/921665/tx-rules-of-evidence.pdf>

Wood, L., Wasim, A., Busch-Armendariz, N., Kammer-Kerwick, M., Bassett, M., & Kellison, B. (2017a). *Methods Report: Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL): Determining Efficacy, Cost Efficiency, & Impact on Outcomes*. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault. Retrieved from: <https://sites.utexas.edu/idvsa/files/2019/03/ReVEAL-Methods-Report-formatting.pdf>

Wood, L., Wasim, A., Busch-Armendariz, N., Kammer-Kerwick, M., Bassett, M., & Kellison, B. (2017b). **Project ReVEAL: Preliminary Findings Report**. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault. Retrieved from: <https://sites.utexas.edu/idvsa/files/2019/03/Project-ReVEAL-Preliminary-Findings-Report.pdf>

Page intentionally left blank

Project ReVEAL: Guidance for Victim Advocates 4

42

1. Background and Overview
2. Guidance for Law Enforcement
3. Guidance for Prosecutors
- 4. Guidance for Victim Advocates**
5. Technology and Equipment Guidance
6. ReVEAL Summary Report
7. Appendices

⁴ Project ReVEAL primarily uses the term “victim,” as it is the term used by the stakeholders involved in the study. Many service providers and advocates also use the term “survivor,” which may appear interchangeably at different points in this guide.

Video statements can be a powerful tool in family violence cases; victim safety and security are a critical component of policies and procedures related to video practice.⁴

After police intervention, many victims of family violence continue to live in fear of future violence by a family member or intimate partner (Dichter & Gelles, 2012).

During each phase of Project ReVEAL, the research team conducted interviews and focus groups with victims and victim advocates to better understand the impact of video statements on victims, as well as their families and support networks. In addition, law enforcement, prosecutors, and defense attorneys were asked to share their thoughts about the impact of video statements on victims. This section outlines existing policies on video evidence, feedback from victims of family violence cases, and guidance from professionals working with victims on how to prioritize victim safety, security, and autonomy in crafting policies on video-recorded statements and evidence.

43

Victim Advocate Role 4.1

Victim advocates can be based in law enforcement agencies, district attorneys' offices, or community organizations such as shelters, crisis centers, or other service providers. Victim advocates within the criminal justice system often act as a liaison helping victims understand and navigate the complex criminal justice process that can follow a family violence incident.

"We're a liaison for our victims between our victims in law enforcement, so we make sure we provide them [with] case-status updates. We kind of go through and we describe the criminal justice process because it's very confusing, and I feel like victims are more empowered if they know like, "Okay, what – what can I expect in the future? Where's this gonna go? How long is it gonna take?" Because we often confuse what we see on TV, and we think that's what happens in the real world when it comes to law enforcement, and that's not the case...We like to set up very real expectations for our victims so that they're not caught off-guard and that they're better prepared for what's gonna come next." - Victim Advocate

Victim Advocate Terminology

In the aftermath of a family violence incident, a variety of professionals both within law enforcement agencies and the broader community may offer support to victims. In this report, the term "victim advocate" is used broadly to describe anyone whose primary role is supporting victims after a family violence incident, whether they are based within a law enforcement agency or in the community. While professional titles vary – some use the terms victim counselor or victim liaison – "victim advocate" is used consistently throughout the report in order to protect the confidentiality of the participants who shared their experience. These roles vary not only in title, but in scope and type of services offered. These differences are explored in greater detail throughout this section.

Criminal justice system-based advocates may help victims obtain a protective order, conduct a more in-depth risk assessment, provide referrals to community resources, safety plan, and help officers and prosecutors engage with victims as they continue to investigate a case. Some victims feel more comfortable disclosing additional information to a victim advocate because, in the words of one advocate, *"a lot of their interaction with law enforcement hasn't maybe been the best."* In some cases, victim advocates may be called to testify in court or help prepare victims for court testimony. Victim advocates within the community may provide a wide variety of services ranging from counseling, to case management, to housing support, and more.

While victim advocates interviewed for Project ReVEAL were not always directly involved in video practice, jurisdictions collaborated with victim advocates in a variety of ways in their implementation of a video evidence practice. Victim advocates participated in officer training, routinely explained video evidence to victims, and supported victims who may be preparing to testify during a trial. Some victim advocates also found that reviewing video evidence and gaining a better understanding of what a victim experienced can help them build rapport.

"I think it's beneficial for us, too, to review footage, to just kinda see the victim's demeanor... everybody experiences trauma differently, so, my reaction to be sad and cry, somebody else may be angry and things like that. So it helps us to assess where their head's at, what state of mind they're in, and so that when we approach it, we kind of already can go in with knowing the background of what all went on scene, so we're better prepared. And then whenever we're discussing it with them, we know the ins and outs of the case and kinda what happened, and we're able to—I think it's easier to build rapport" - Victim Advocate



Video Statement Protocols: Privacy and Consent 4.2

The policies and practices that inform how and when law enforcement officers obtain video-recorded statements vary across sites and are explored throughout this Implementation Guide. Many sites are continuing to develop and refine these policies on an ongoing basis, and victim advocates can play a critical role in ensuring that practices are responsive to victim needs and concerns. This section outlines several key issues that video policies and practices must consider, including:

- ⊕ privacy laws and concerns;
- ⊕ informing victims of video-recording;
- ⊕ storage, retention, and access to video files;
- ⊕ explaining the video practice to victims; and
- ⊕ giving victims the opportunity to decline video-recording.

Training is a critical part of implementing video policies and practices, and victim advocates should collaborate with law enforcement officers, prosecutors, and other allied professionals to develop and facilitate these trainings.

Current Policies

“...the policy is whenever –how can I explain it –whenever you can, let them know you’re recording.” - Sheriff's Office Deputy

Law enforcement policies and practices surrounding video-recorded statements vary greatly. Policies often address when and how to inform private persons of the recording device, when recording devices should be activated and deactivated, and the questions that officers should ask when obtaining a

video statement. While jurisdictions lacked clear, formal policies about obtaining victim consent to be video recorded, many law enforcement officers included in the study asked for permission prior to recording victims with a handheld camera.

“Basically, when I respond to the calls, I actually wait, I assess the situation and then I'll get the camera down. That's when I ask if everyone's is cooperative and if they do then I start recording.” - Law Enforcement Officer

Sites participating in Project ReVEAL were still in the process of developing clear, consistent policies regarding the storage and transfer of video evidence, including issues of access, redaction, and privacy. Due to the increasing prevalence of body-worn camera technology – compared with smaller handheld camera programs – many jurisdictions have developed policies that specifically address body-worn cameras. As jurisdictions make changes in camera technology, software, IT infrastructure, and case review processes, policies and procedures should be updated quickly to reflect these changes.

Clear and consistent policies must be accompanied by thorough training for all staff who gather, store, and use video evidence. This includes ongoing refresher trainings. In some jurisdictions, experienced officers stopped using formal question protocols, leading to gaps in the statements collected. Refresher trainings can promote thorough investigations and help officers understand how question protocols cover the information most important to prosecutors. One Sheriff's

Deputy explained the benefits of using an interview protocol rather than relying on experience alone:

“And I've seen through responding as a patrol deputy that...before you relied on your experience through the academy, experience going to calls... But that interview-packet process is great, 'cause you sit down, you essentially build rapport and get to know the victim while you're there and what they've been through in the past and then assess the situation, the reporting at that time. I mean in my opinion as a patrol deputy responding to a family violence call, when I go through that family violence interview, I hit every part of it that's applicable to that victim...” - Sheriff's Office Deputy

Sample Policies and Guidelines

Jurisdictions should tailor video protocols to the unique needs of their community, criminal justice agencies, the specific video technology used, the IT infrastructure available for video storage and transfer, and other factors. Several resources and sample protocols are included in this guide and continue to be developed that jurisdictions can look to as they develop and refine video protocols.

Appendix D includes numerous sample protocols including:

- ⊕ Sample questions to ask when video recording a victim or witness statement
- ⊕ A supplemental protocol for cases involving strangulation
- ⊕ Two sample body-worn camera policies from the Texas Commission on Law Enforcement

The International Association of Chiefs of Police (IACP) held a multidisciplinary **National Forum on Body-Worn Cameras and Violence Against Women**, which generated considerations and recommendations for developing body-worn camera policies that are responsive to victims of family violence. Guidelines and findings are available online in written reports and webinar trainings to help law enforcement agencies develop policies that consider victim safety, privacy, and autonomy (International Association of Chiefs of Police [IACP], 2017).

New York University's Brennan Center for Justice compiled a catalogue of publicly available police department **policies on body-worn cameras**, which compares policies with regard to the length of time video can be stored, processes for obtaining consent, public access to records, and whether an officer can view video before making a report or statement (Brennan Center for Justice, 2019).

Recommendations

In addition to consistently using victim and witness question protocols, consider developing a brief script for introducing video recording and explaining how video evidence may be used.

- ➔ Provide victims with information up front in order to address confusion and discomfort victims may have about video recording.
 - ⦿ Develop materials for victims to take with them, such as a flyer or pamphlet, that provides helpful resources and answers to questions the victim may have about his or her statement after the incident.
- ➔ Victims should be given the opportunity to decline video-recording.
 - ⦿ Some victims may be more comfortable providing a thorough written statement or an audio-recorded statement without video, so jurisdictions may want to consider offering victims a choice about how to provide their statement.
- ➔ Include specific guidelines about the use of video.
 - ⦿ This is especially important in sensitive locations such as hospitals, situations involving minors, and with victims who may be unable to consent to video recording due to language barriers, disability, mental health issues, or intoxication (International Association of Chiefs of Police [IACP], 2017).

Develop policies and protocols for a video-recording through a collaborative process involving multiple agencies and stakeholders (IACP, 2017).

- ➔ Video evidence is used by law enforcement agencies, prosecutors, victim advocates, defense attorneys, and other criminal justice professionals. Their input is critical to ensuring the video evidence is effectively collected, transferred, stored, and reviewed with consideration for the privacy and safety of all involved parties.
- ➔ Victim advocates can help law enforcement agencies understand how victims are impacted by family violence and their experience with video statements. Advocates, especially those based in community organizations, can also help jurisdictions seek input and feedback directly from victims on video evidence policies. This can be particularly important in ensuring that policies consider the unique concerns that vulnerable and marginalized populations may have about video-recording (IACP, 2018).

Ensure that all criminal justice professionals using video evidence are trained on policies and procedures. See the Training and Refreshers section of the Law Enforcement Guide for additional recommendations.

- ➔ Law enforcement officers interviewed for Project ReVEAL wanted to see additional training on the dynamics and psychology of domestic violence, as well as on engaging victims and building trust. Victim advocates can play an important role in developing and facilitating trainings on these topics.
- ➔ Several sites have strategies that promote interagency collaboration and partnership. These are opportunities to identify training needs and ensure that policies and practices are responsive to all agencies that use video evidence. Strategies include collaborative case reviews and high-risk response teams.

Addressing Victim Concerns in Policies and Practices 4.3

Many victims stated their appreciation for video statements and found the process preferable to providing a written statement. However, some victims felt afraid of doing video statements out of fear of retaliation.

"...while you're being recorded your fear is... that the video lands in the hands of the aggressor and the violence would be even stronger than what we have lived with." - Victim

"I think there's a risk... their abuser is seeing firsthand what that person is saying about them, I think it —yeah, most definitely opens the door for retaliation" - Victim Advocate

Other victims were upset because the video statement was taken without their consent. Several victims expressed confusion and apprehension about how the video would be used. Jurisdictions should consider the impact video recording may have on victims when developing policies and protocols.

"...I've had victims sometimes come in and scream at me because they didn't want a video statement taken. They didn't want to be videotaped. They didn't want pictures taken, and they're quite adamant that they mentioned that quite a few times and they still took video." - Victim Advocate

Responding to Victim Concerns

Victim Concerns	Responses and Recommendations
01 Fear that the perpetrator will hear the recording and retaliate	01 Provide victims with clear information upfront about the video-recording process, how video evidence will be stored and used, and who can access it.
02 Fear of being unable to express what occurred	02 Consider offering written information about video evidence alongside any information currently provided to victims following a family violence incident.
03 Feeling confused and scared by the video statement process	03 Give victims the opportunity to decline video-recording. Offer victims the option to choose another format instead such as a written statement.
04 Not understanding why the video is being stored	04 Turn off video-recording device before discussing safety planning or other information that could impact a victim's safety such as the location where the victim plans to stay (IACP, 2018).
05 Wanting to understand the purpose of the video and the process	
06 Confusion about rights to withdraw or not give a video statement	

Victim advocates already act as a liaison between victims and the criminal justice system, and can be important partners in creating policies and practices that are responsive to family violence victims. Several sites engaged in collaborative efforts that leveraged the expertise of victim advocates in both law enforcement agencies and the community.

Promising Practices in Victim Support

- ➔ Site Four has taken steps to minimize distress and traumatization when prosecutors show victims their video-recorded statement. Typically, prosecutors will do this to refresh a victim's memory of what occurred before a trial or as a strategy to encourage continued cooperation in a case. When Site Four shows a victim their video statement, they play the video in a private, comfortable space with a sofa and headphones. They offer the option of having the advocate or a support person (e.g. family member or friend) present to support the victim.
- ➔ Site One uses an interdisciplinary team dedicated to family violence cases. They maintain a practice of 24-hour outreach following a family violence incident, in which teams of investigators and advocates visit victims at their home within a day of the initial incident. The team provides victims with community resources and information about their rights, and they also collect additional evidence if needed. They also ask victims about their desire to prosecute the case, while informing victims that ultimately the DA will make the decision about whether or not to proceed with the case.
- ➔ Rural counties like Sites Five and Six faced limited resources dedicated to family violence compared with larger jurisdictions. These sites capitalized on other programs and services in the community, even building relationships with service providers in nearby cities. Site Five works closely with a counselor in the community who is not formally affiliated with a law enforcement agency or domestic violence shelter, but who regularly works with victims of family violence. This counselor is part of the multidisciplinary high-risk team in the community. High-risk teams are dedicated to family violence can be particularly helpful in promoting interagency collaboration and leveraging limited resources.

Additional Study Needed 4.5

Additional research should continue to focus on the impact of video recorded statements on victims. Due to the sensitive nature of family violence incidents, the sample of victim interviews conducted for Project ReVEAL was limited. More research is needed to focus on victims who may have unique needs and considerations related to English proficiency, immigration legal status, disability, or mental health concerns. It is critical that victim safety and other needs are addressed not only in research interviews with victims, but also in interviews with law enforcement, prosecutors, advocates, and other professionals using video evidence in family violence cases. Additionally, research is needed on video recorded statements in sensitive settings, for example when a child is present or when an interview takes place in a medical facility. Ongoing evaluation is needed as sites continue to develop guidelines and practices for engaging with victims, ensuring victim safety, and explaining video practice to victims.

Many sites are continuing to adopt new video technology and are still developing policies and practices for video recording. Additional research and guidance are needed examining the laws and regulations that may apply to video evidence, including federal privacy laws such as the Health Insurance Portability and Accountability Act (HIPAA) (International Association of Chiefs of Police [IACP], 2017). Many sites would also benefit from additional guidance on the length of time video evidence should be stored, how and when video evidence should be destroyed, and issues of access to video evidence. Additional study is also needed to examine differences in how body-worn, handheld, and other types of camera technology impact victims. For example, certain camera types are easier to detach and hold in order to obtain a clear and focused image of the victim providing a statement, as well as any injuries. Additional study should also explore how video-recorded statements may be used in civil or other legal matters (e.g. divorce, child custody, civil orders of protection).

References 4.6

Brennan Center for Justice (2019). Police Body-Worn Camera Policies. [Interactive Map]. New York University. Retrieved from: <https://www.brennancenter.org/our-work/research-reports/police-body-worn-camera-policies>

Dichter, M. E., & Gelles, R. J. (2012). Women's perceptions of safety and risk following police intervention for intimate partner violence. *Violence Against Women*, 18(1), 44.

International Association of Chiefs of Police (IACP). (2017). National Forum on Body-Worn Cameras and Violence Against Women. Retrieved from: <https://www.theiacp.org/resources/document/national-forum-on-body-worn-cameras-and-violence-against-women>

International Association of Chiefs of Police (IACP). (2018). Body-Worn Cameras and Violence Against Women: Policy and Program Development. [Webinar]. Retrieved from: <https://www.theiacp.org/resources/webinar/body-worn-cameras-and-violence-against-women-policy-and-program-development>

Page intentionally left blank

Project ReVEAL:

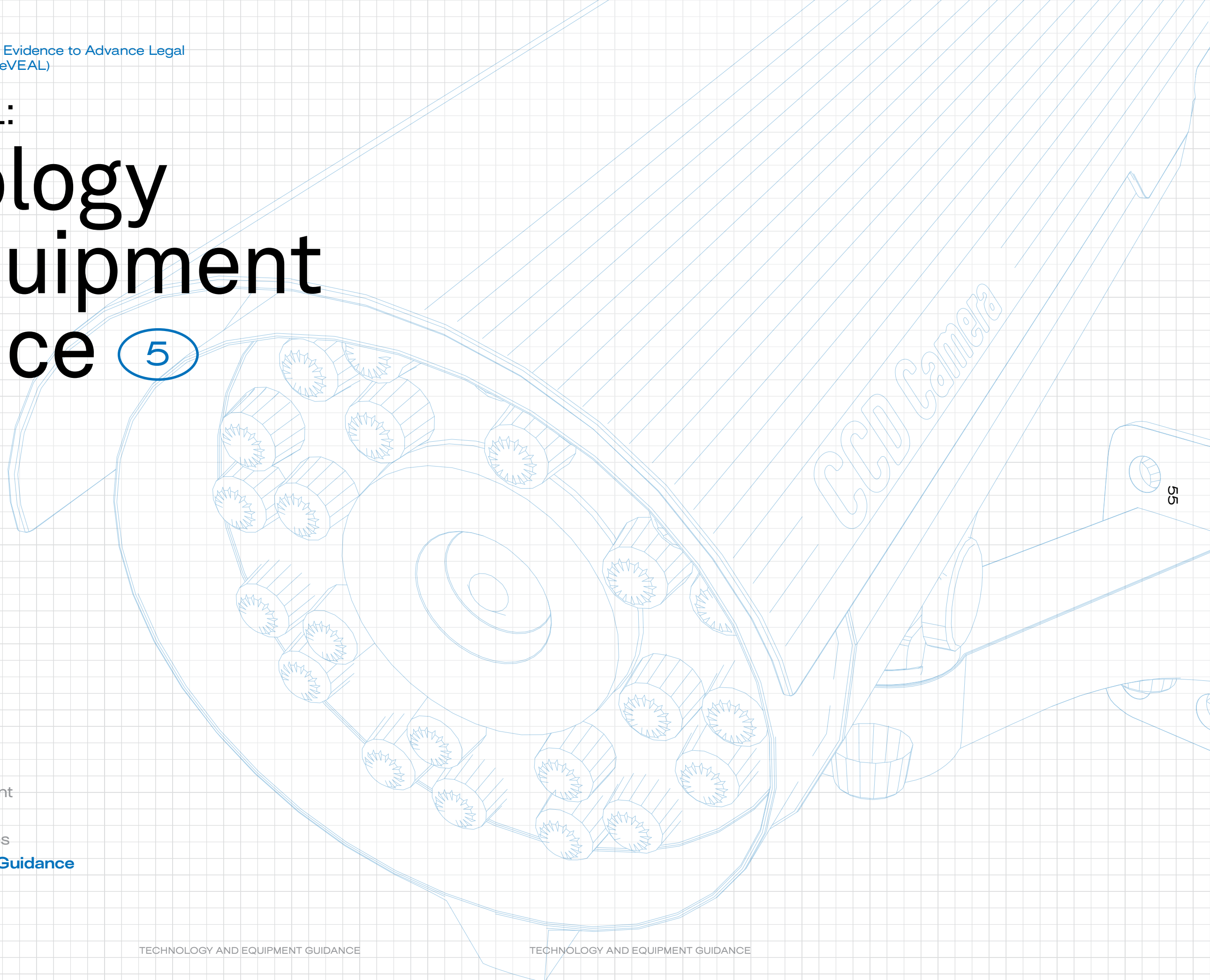
Technology and Equipment Guidance

5

54

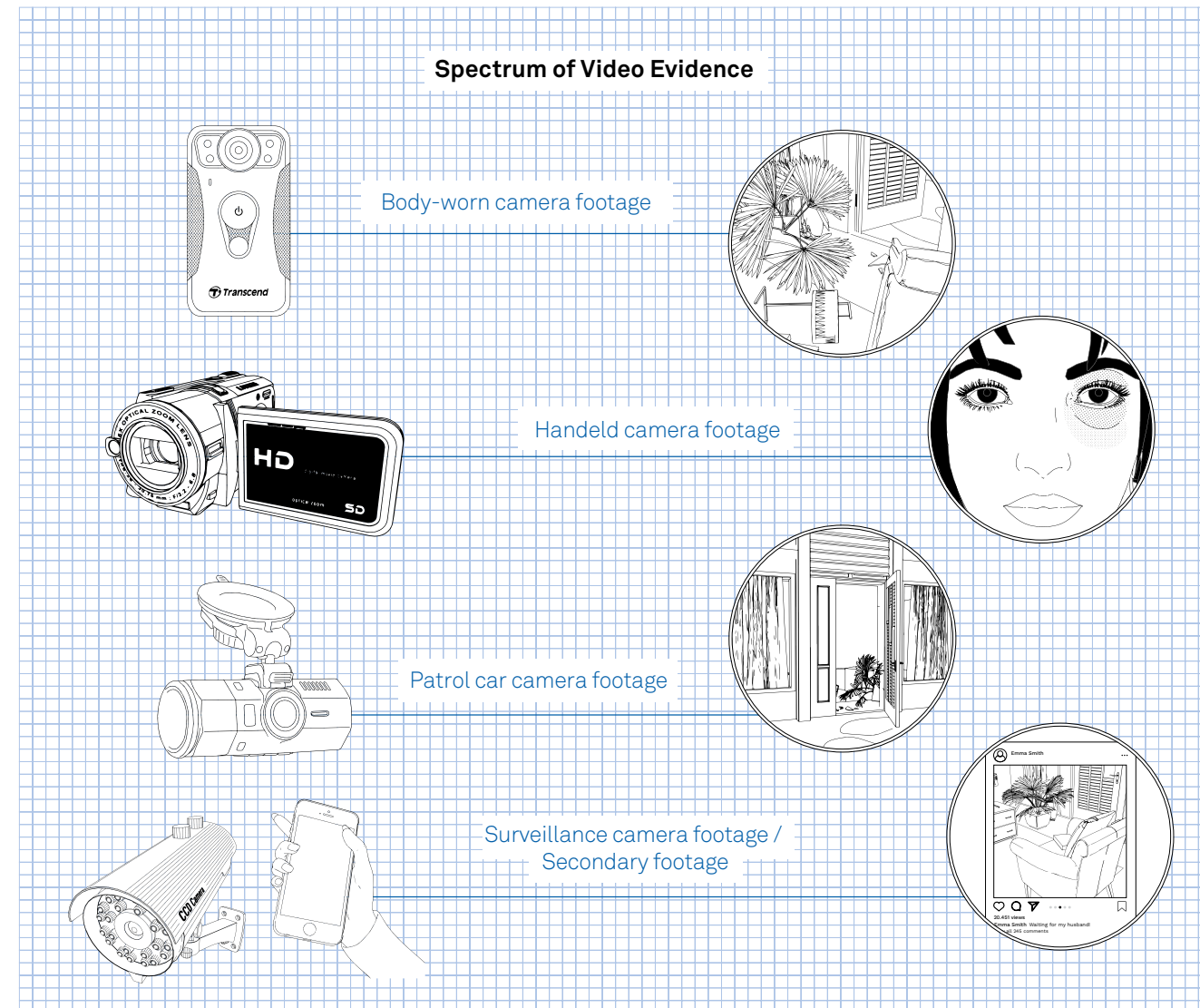
1. Background and Overview
2. Guidance for Law Enforcement
3. Guidance for Prosecutors
4. Guidance for Victim Advocates
- 5. Technology and Equipment Guidance**
6. ReVEAL Summary Report
7. Appendices

55



Technology and Equipment Considerations 5.1

While gathering video-recorded statements from victims and witnesses is still a relatively new practice, many law enforcement agencies have had a longstanding practice of gathering video evidence during investigations. In-vehicle dash cameras are frequently used to record field sobriety tests and traffic stops. When individuals give statements at police stations, those interactions are often recorded to document the statement. Law enforcement may also request surveillance videos from businesses or private residences as evidence during investigations and, more recently, from individuals who may use their cell phones to document a potential crime. As noted elsewhere in this guide, police officers are also facing an increased expectation to record their interactions with the public using body-worn cameras (President’s Task Force on 21st Century Policing, 2015; Crow, Snyder, Crichlow, & Smykla, 2017).



While camera technology is rapidly expanding, information on usability issues remains limited. A 2016 market survey identified 66 body-worn camera models sold by 38 different vendors (Hung, Babin, & Coberly, 2016). Jurisdictions therefore navigate a complex web of technological features that will continue to evolve over time. A study of body-worn camera design considerations and usability identified several themes agencies might consider when assessing new camera technology (Suss, Raushel, Armijo, & White, 2018). These include image quality, camera position (single mounting position or multiple options), manual or automatic activation, and data transfer processes. Across all of these considerations, jurisdictions must balance costs, ease of use, quality, file storage, and more (Suss et al., 2018).

Advances to video-recording technology mean that police are more equipped to capture information on video during their response to calls and in investigations. However, many officers expressed concerns about having “another thing to do” when their priority is the safety of those involved. Police are responsible for carrying a substantial amount of equipment in their vehicles and on their body at all times. Adding a piece of equipment that requires adequate storage, charging, and, in the case of handheld recording equipment, the use of their hands can present a safety risk to officers responding to a scene of a crime. For this reason, the usability of new equipment depends on the integration of the recording equipment into their existing practice.

“...there’s a lot going on, and that’s like the last thing that you want to do is have to be fumbling with another something in your hands. So I think just the ease of using the body cameras is probably the main reason why most of the guys just use the body cameras instead of the handheld. It’s already recording, so it’s not like they have to stop what they’re doing, go to get that other camera out, and then resume. It’s just a fluid part of the investigation.” - Detective

As officers received different types of handheld recording devices as part of this project (see Appendix B), there were several notable differences in what officers found useful or challenging about the equipment. For example, one type of handheld camera used in this project did not have a viewfinder, so officers were unable to see what was being recorded during an interaction. On the other hand, cameras that require too much set-up – for example the use of a tripod – created delays and challenges to engaging with victims. Some officers noted that delays related to tripod set-up or retrieving a camera from their vehicle caused victims to retreat or shut down, making it more difficult to obtain a statement.

"I just saw a video yesterday where... it was taken with a body camera. That's excellent as well. The only thing is that every time the officer would shift his body, it would take the focus away from the victim. You can't really focus too much on her face or injuries..." – Detective

"They would talk, talk, talk, and then, "Oh, hang on. Let me get the family-violence camera," and, you know, X, Y and Z, and they would just kind of shut down a little bit because now it is a camera in their face" - Victim Advocate

"When the officer would tell her to, "Hang on, I'm gonna go get the camera," night and day difference as soon as that camera started rolling... they would withdraw"
- Law Enforcement Officer

Often, the features that officers perceived as either helpful or challenging depended on whether the agency used body-worn or handheld camera technology.

Body-worn vs. Handheld Camera Considerations

Body-worn cameras ↔ Handheld cameras

- | | |
|---|---|
| <ul style="list-style-type: none"> 01 Captures initial impression of scene while giving officers full range of movement to respond to incident. 02 More likely to capture excited utterances, a type of statement that can be admissible in court. 03 May be inadvertently placed too high or too low relative to victim, or covered by a clipboard or other object. | <ul style="list-style-type: none"> 01 More clearly focused on person giving statement. 02 Easier to zoom in on injuries or other specific case elements. 03 Requires time for camera set-up and placement, which can only occur after scene has been secured. 04 Footage is primarily limited to victim and witness statements, making it easier to tag or label compared to sifting through lengthy body camera footage. |
|---|---|

These practical limitations can have widespread applications when considering the adoptability of the practice by a law enforcement agency. If officers feel the equipment is inefficient, ineffective, or poses a threat to their safety, they will not want to use the equipment and the investment in the technology will be a waste to the agency.

Recommendations

- ⊕ Pilot potential equipment with officers to understand the pros and cons of any new video-recording technology before launching it with the entire agency. Gathering this feedback can provide valuable information and create buy-in with the officers who may feel more invested in technology that they recommended.
- ⊕ Consider the type of equipment officers currently carry to understand how the new technology could fit into their storage capacity. Think practically about issues related to camera storage and placement, as well as how easy it will be for officers to access the equipment quickly and safely when navigating potentially risky situations.
- ⊕ Tailor protocols for investigating family violence incidents to the type of camera technology used. Protocols should address how and when victims or witnesses are notified of video-recording; the process for obtaining consent to record; and how to explain video-recording to victims who may be experiencing distress and trauma.

- ⊕ Establish clear policies on who is responsible for the equipment, its storage, and keeping the equipment charged and in working order. Like any technology, video equipment can be faulty and should be regularly tested to ensure it is fully functional. Officers noted occasions where they would try to use the equipment, only to find that it was faulty or unusable.

Technology and Equipment: Efficient Transfer of Evidence

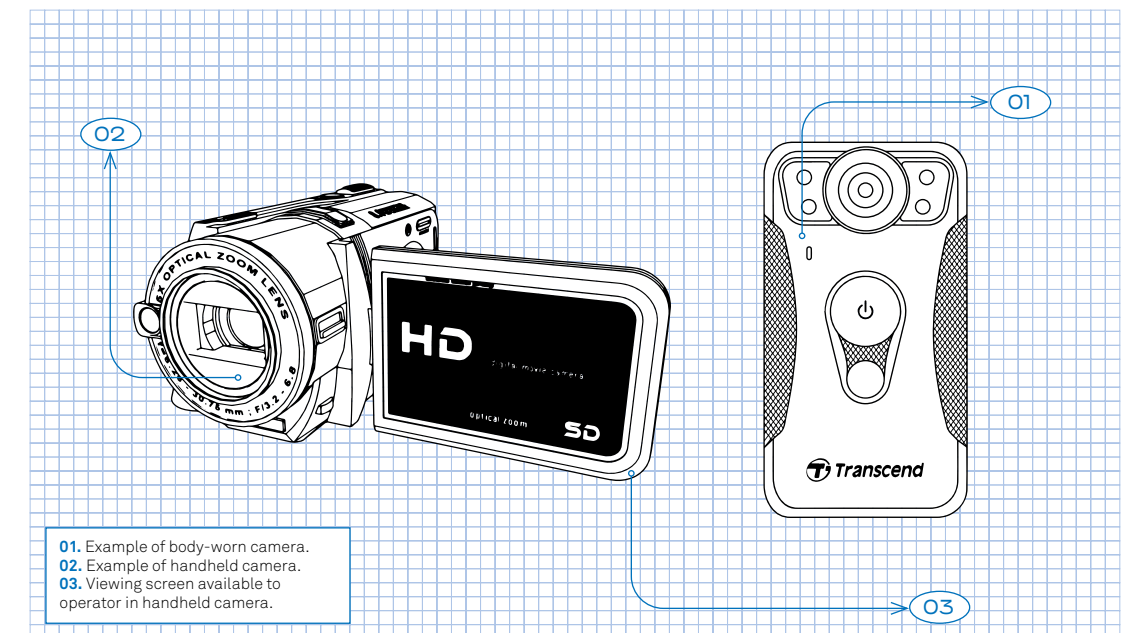
Video evidence requires protocols and software for storing, transferring, and viewing large video files. Efficient transfer of evidence often depends on the relationship between a district attorney's office and law enforcement agencies, as well as a jurisdiction's ability to invest in technology and software to facilitate video sharing. Prosecutors and law enforcement officers would like to see all of the agencies using the same software and data management systems to more efficiently transfer video evidence.

"The biggest thing that would be really helpful is having everybody on the same system using the same sort of stuff." - Prosecutor

Data management software should ideally allow videos to be easily viewed by the appropriate personnel involved in a given case, while also ensuring that sensitive information remains private and secure.

Some jurisdictions expressed a need for clear and consistent procedures for documenting and tagging video, for example clearly labeling victim statements or marking key moments in longer video clips. This is particularly important for jurisdictions using body-worn cameras that typically record an incident from the moment of an officer's arrival to his or her departure. Some sites have a practice of including information about video statements in the written report, which allows prosecutors to request any videos that have not yet been uploaded.

Jurisdictions that use both handheld and body-worn cameras often must navigate different video storage and transfer systems for different camera types. For example, at one site, prosecutors have immediate access to handheld video evidence, but experience wait times to receive body-worn camera evidence. At other sites, cloud-based body-worn camera systems allow evidence to be transferred more efficiently compared to handheld cameras.



Other sites are quickly outgrowing their storage infrastructure. For example, at one site, video evidence takes up more than half of the entire county server. They are in the process of seeking solutions for storage and developing retention policies. Another site had already outgrown their proposed IT infrastructure by the time it was approved for implementation. One officer described the challenge: *"(G)etting enough storage getting enough storage on the server, trying to get a backup so that in case the server crashes...Our primary server got too big to even use that. So now we're back to the drawing board trying to find something else. So that's been an interesting dynamic... the man hours of burning physical DVDs versus just leaving them on the server and having digital evidence and all that, that's something we're working through. It's very time- and cost-prohibitive to get all this digital evidence admitted."*

- Law Enforcement Officer

Across sites, privacy is a key concern in establish procedures for the storage and transfer of video evidence. Detectives in one jurisdiction can only view on a computer located in a property room with minimal privacy and significant foot traffic. They expressed a need for a more private and secure way to view video evidence when reviewing cases. Another jurisdiction uses flash drives to transfer video evidence, and emphasized the importance of maintaining a clear "chain-of-evidence" for passing along sensitive information. Law enforcement staff also expressed a need for clear policies dictating how long video evidence is stored before it is deleted.

Recommendations

- Invest in technology and software to facilitate video storage, as well as efficient and secure transfer of video evidence between agencies.
- Establish clear and consistent procedures for tagging video evidence and documenting the presence of video in case files and reports. Effective tagging procedures should make video easier and more efficient to review, for example by indicating whether footage contains a victim or witness statement. These procedures should be included in ongoing training for prosecutors and law enforcement staff.
- Establish policies for keeping sensitive video private and secure. These policies should account for special privacy concerns when victims and children are included in videos. Policies should address issues of video storage and access, and video footage should only be stored in digital or physical locations where access can be controlled and monitored.
- Policies should also clearly specify how long videos can be stored. These retention policies should indicate how and when videos will be deleted or archived.

References 5.2

Crow, M. S., Snyder, J. A., Crichlow, V. J., & Smykla, J. O. (2017). Community Perceptions of Police Body-Worn Cameras: The Impact of Views on Fairness, Fear, Performance, and Privacy. *Criminal Justice and Behavior, 44*(4), 589–610. <https://doi.org/10.1177/0093854816688037>

Hung, V., Babin, S., & Coberly, J. (2016). *A Market Survey on Body Worn Camera Technologies*. Laurel, MD: Johns Hopkins University Applied Physics Laboratory.

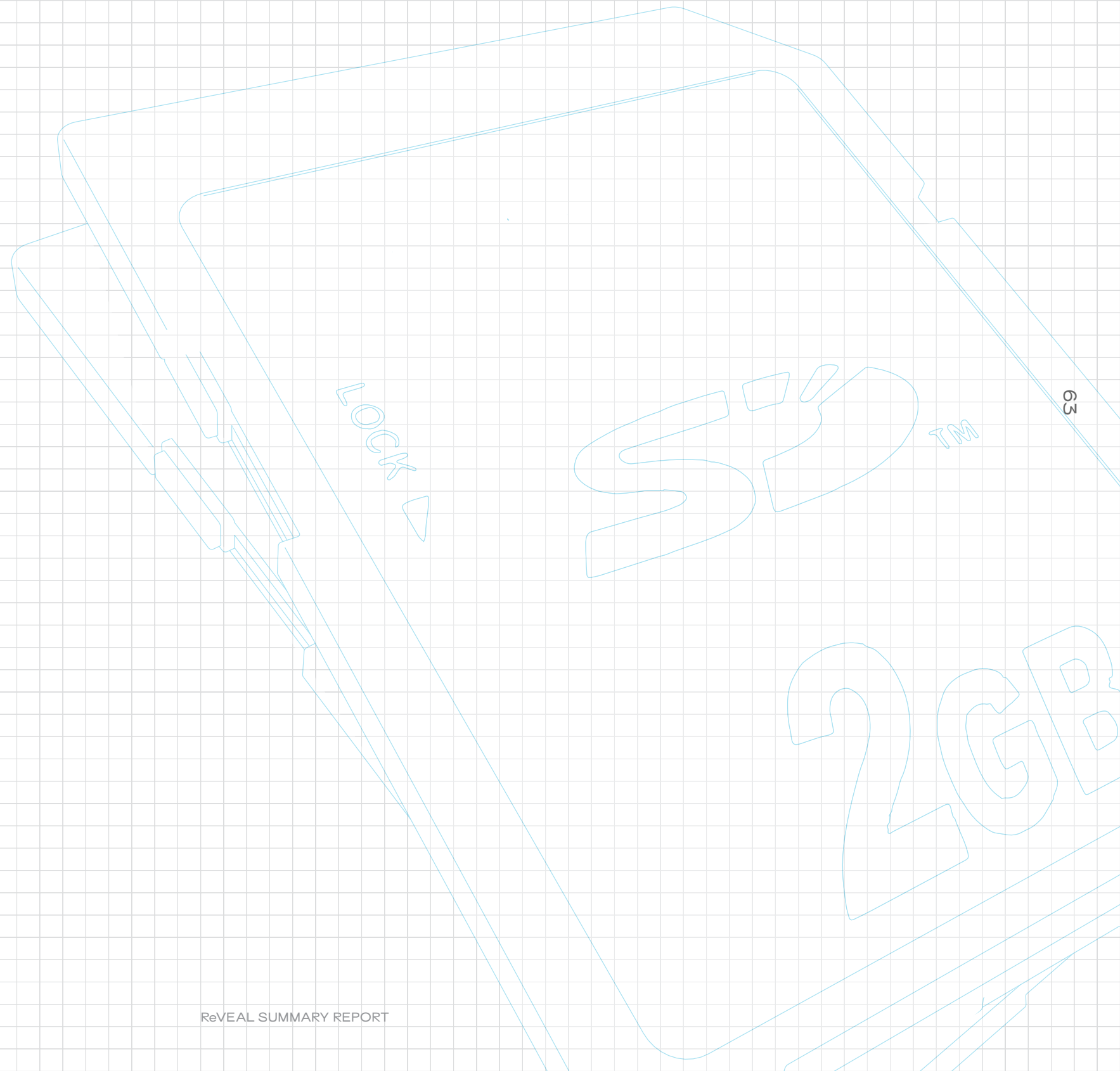
President's Task Force on 21st Century Policing. (2015). *Final Report of the President's Task Force on 21st Century Policing*. Washington, DC: Office of Community Oriented Policing Services.

Suss, J., Raushel, A., Armijo, A., & White, B. (2018). Design Considerations in the Proliferation of Police Body-Worn Cameras. *Ergonomics in Design, 26*(3), 17–22. <https://doi.org/10.1177/1064804618757686>

Project ReVEAL: ReVEAL Summary Report ⑥

62

1. Background and Overview
2. Guidance for Law Enforcement
3. Guidance for Prosecutors
4. Guidance for Victim Advocates
5. Technology and Equipment Guidance
- 6. ReVEAL Summary Report**
7. Appendices



63

Introduction 6.1

This report summarizes findings from the three-year study *Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL)*. The ReVEAL evaluation examines role of video evidence in investigating, prosecuting, and adjudicating family violence cases. It looks at the use of video evidence at every stage of the criminal justice process from case investigation and assessment to prosecution outcomes. It also incorporates the perspective of victims and victim advocates and considers issues of safety, privacy, and victim engagement. The study was conducted in three phases between 2016 and 2019 in partnership with district attorney's offices and law enforcement agencies at six study sites across Texas with a new or existing video evidence program. This summary report and the accompanying Implementation Guide consolidate and build on initial findings published in Project ReVEAL's Methods Report (Wood et al., 2017a), Preliminary Findings Report (Wood et al., 2017b) and Interim Report (Backes et al., 2019).

Project ReVEAL used a mixed-methods research approach combining interviews, focus groups, surveys, and quantitative case data analysis. Findings include practical considerations, common practices, and recommendations for implementing a video evidence program and using video evidence to investigate, assess, and prosecute family violence cases. Findings also include quantitative analysis comparing family violence case outcomes in cases with and without video evidence. These quantitative findings shed light on the impact of video evidence on conviction rates, plea deals, and dismissals. Throughout the study, the ReVEAL evaluation was guided by specific research questions, including:

- 01 Do videotaped victim statements improve law enforcement investigative capacity and prosecutorial readiness in family violence crimes?
- 02 Do videotaped victim statements increase the accountability of family violence offenders?
- 03 Do videotaped victim statements improve the victim experience in the criminal justice system?

Throughout the study, prosecutors and law enforcement officers expressed positive views about video evidence suggesting that it can be a powerful tool in investigating, assessing, and prosecuting family violence incidents. However, several issues emerged that warrant further exploration and research, including the rapid transition to body-worn cameras in many jurisdictions and the need to clarify policies and practices around issues of privacy, consent, and storage and transfer of evidence. Victims of family violence incidents reported mixed experiences with video evidence suggesting an additional need for research on issues of victim engagement when obtaining and using video evidence.

Background of Project ReVEAL 6.2

Project ReVEAL was developed in partnership with the Office of the Governor of Texas Criminal Justice Division and the Texas Council on Family Violence. In early 2016, video-recording equipment was distributed to sixteen Texas jurisdictions as part of a pilot project to strengthen the quality of case evidence and improve prosecution rates in family violence cases. The Office of the Governor of Texas Criminal Justice Division awarded funding to the University of Texas at Austin to complete a mixed-method evaluation of the pilot program.

Two sites with an existing video evidence practice served as model programs for the sixteen jurisdictions implementing a new video practice, and the District Attorneys (DAs) from the two sites provided six regional trainings the first year of the project. The new programs were responsible for creating their own policies and procedures regarding the distribution of cameras to law enforcement agencies and the storage and transfer of video evidence. The jurisdictions were also responsible for securing any additional resources needed to accommodate the digital storage needs associated with the new technology. The sixteen sites selected for the pilot program were offered three options for handheld camera technology (see Appendix B). However, the counties that participated in the ReVEAL evaluation study were simultaneously transitioning to body-worn cameras within one or more of their law enforcement agencies. This timing allowed some study participants to compare and contrast their experience with body-worn and handheld camera technology in investigating and prosecuting family violence cases. Thus, considerations for both body-worn and handheld camera technology are included across ReVEAL reports.

The ReVEAL evaluation examined six district attorney's (DA's) offices and the law enforcement agencies serving their counties. Prosecutors, law enforcement officers, and systems-based victim advocates at the six sites participated extensively in interviews and focus groups over multiple time points. The DA's offices assisted the ReVEAL team in identifying defense attorneys, community-based advocates and victims of family violence for participation in the evaluation. The ReVEAL team also worked closely with sites to collect data on closed cases through case file review and administrative data retrieval in order to analyze family violence case outcomes. Ultimately, only two sites were able to provide a large enough sample of closed case data to conduct quantitative analysis due to factors including case volume, delays in case closure, length of video evidence program, and information technology (IT) infrastructure.

The ReVEAL evaluation was divided into three phases corresponding to the three years of the study. The first year, phase I, focused on study sites one through three (see table 1 below). Phase I included interviews and focus groups, quantitative closed case data analysis, a video quality and usability assessment, and a survey of law enforcement officers across two study sites. Phase II continued to focus on sites one and two, allowing the research team to examine fidelity of practice and any changes to video programs. Phase II also focused on an additional comparison site – Site Four – with an existing video evidence program. Phase II included interviews and focus groups with an added focus on body-worn camera technology, IT infrastructure considerations, and defense attorney perspectives.

Phase II also included additional quantitative analysis using a more thorough case coding process that differentiated between video-recorded victim statements and other types of video evidence. Phase III focused exclusively on two rural counties examining the unique considerations of video practice in rural areas. A full overview of the six participating research sites is included in the Implementation Guide (see Appendix A).

ReVEAL Study Sites

	ReVEAL Participation	Region	Density	Video Practice
SITE 01	Phase I and II	West	Urban	Site One is the largest urban jurisdiction and adopted a handheld video-recording practice in 2011. Site One also adopted body-worn cameras in 2017.
SITE 02	Phase I and II	Southwest	Urban	Site Two launched its handheld video-recording practice in 2016. Some officers also use body-worn cameras.
SITE 03	Phase I	South	Rural	Officers at Site Three have access to handheld cameras and some have access to body-worn cameras.
SITE 04	Phase II	Central	Mid-sized	Site Four established a video-recording practice in 2015 modeled on Site One. Site Four adopted an additional body-worn video practice in 2017.
SITE 05	Phase III	North	Rural	Site Five had an existing body-worn camera program, separate from the Governor's Office pilot initiative.
SITE 06	Phase III	Central	Rural	Site Six used handheld cameras. Some officers at Site Six also used body-worn cameras.

Video evidence is a new technology and practice in many jurisdictions, so many of the recommendations and findings outlined in this study warrant further research. Project ReVEAL explores the potential for video-recorded victim statements to be adopted as an evidence-based practice to improve outcomes in family violence cases.

Methods 6.3

Project ReVEAL is an exploratory study looking at the use of video evidence in family violence cases, particularly video-recorded victim statements. The evaluation used a mixed-methods research approach combining qualitative data drawn from interviews and focus groups with quantitative findings from closed case analysis. For a complete overview of the methods used for the evaluation, please see the ReVEAL Methods Report (Wood et al., 2017a).

The ReVEAL evaluation is informed by two theoretical perspectives: theory of change and focal concerns theory. The theory of change suggests that evaluations should identify the long-term and interim outcomes a program hopes to achieve. Also, under theory of change, evaluations are driven to identify the resources needed to achieve program outcomes and articulate the process and theory by which they will be achieved (Weiss, 1995; Connell & Kubisch, 1998). The theory of change informed the evaluative approach outlined in the ReVEAL Methods Report (Wood et al., 2017a).

Focal concerns theory suggests that three focal concerns inform the decision-making of attorneys, judges, and other court actors: (1) perceptions about the blameworthiness of the offender, (2) potential community risks posed by the offender, and (3) practical concerns and constraints related to the legal decision (Steffensmeier, Ulmer, & Kramer, 1998). Campbell and Fehler-Cabral (2018) propose that additional focal concerns such as victim credibility and cooperation may impact the decision-making regarding gender-based crimes. Focal concerns theory has been applied to decision-making in specialized domestic violence courts (Freiburger & Romain, 2018), sentencing outcomes for family violence incidents (Jeffries & Bond, 2014), law enforcements' use of rape kits as evidence (Campbell & Fehler-Cabral, 2018), and law enforcements' use of force (Crow & Adrion, 2011). The research team applied focal concerns theory in Project ReVEAL to identify key decision-making points that could influence a criminal case with video evidence to develop the Case Flow Chart (see Appendix E).

Project ReVEAL used various approaches to data collection across each project phase:

Interview with and focus groups with professionals: Table 1 shows the total number of interview and focus group participants broken down by role or profession (Wood et al., 2017a; Backes et al., 2019). The table includes duplicates, as some participants were involved in both interviews and focus groups or were interviewed in more than one study phase. A full overview of interview protocols can be found in the ReVEAL Methods Report (Wood et al., 2017a). Interviews focused on jurisdictions' approaches to investigating and prosecuting family violence cases; the development of policies and practices for video evidence; the ways video evidence is used in family violence cases; the costs and benefits of video programs; and how jurisdictions engage with victims throughout the criminal justice process. Two sites

participated in the ReVEAL evaluation across Phases I and II of the project. These continuing sites were asked questions about changes to case procedure and video practice to assess fidelity of the practice. One site ended participation between Phases I and II due to a discontinuation of the practice, so a new site was added that had a pre-established video program. Phase III focused on two rural sites to understand the role of video in smaller communities. Questions were also added regarding body-worn cameras as study sites increasingly adopted body-worn camera technology over the course of the study.

Interview and Focus Group Participants by Profession

Professional Role	Phase I	Phase II	Phase III	Total
Prosecutors	22	16	04	42
Law Enforcement (Patrol, Detectives, Leadership)	22	22	02	46
Victim Counselors & Victim Witness Personnel (Justice System Based)	10	06	00	16
Victim Counselors & Advocates (Community-Based)	11	00	00	11
Victims	23	14	02	39
Others (Judges, Defense Attorneys, Dispatch, Investigators, Support Staff)	08	03	00	11
Total	96	61	08	165

Video quality and usability assessment: While video quality and usability continued to be discussed in interviews and focus groups throughout the study, a formal video quality and usability assessment was conducted during Phase I of the project. The assessment protocol is included in the ReVEAL Methods Report. Members of the research team viewed videos alongside members of the prosecution team (primarily prosecutors but occasionally investigators or victim counselors with the district attorney office) to assess the video-recorded victim statements for image and audio quality, thoroughness, and whether a formal question protocol was used. The research team also asked open-ended questions about how the video might inform their actions in the case and whether any elements of the videos were particularly useful (Wood et al., 2017a).

Interviews and focus groups with victims:

Interviews with victims of family violence were conducted across each phase of the study to understand victims' experience with video evidence and with the criminal justice system more broadly. Participants were recruited with the help of participating DA offices and with the help of community-based service providers. Additional victim protocols were piloted during phase II of the study to allow researchers to conduct brief interviews with victims shortly after the initial response to a family violence incident (Backes et al., 2019).

Law enforcement survey: During phase I of the ReVEAL study, the research team administered a brief survey to law enforcement officers across two study sites. The survey (see ReVEAL Methods Report, Wood et al., 2017a) modified an instrument created by McPhedran, Gover, and Mazerolle (2017) with the researchers' permission. Survey questions addressed law enforcement perceptions about family violence, perceptions about video practice, time dedicated to family violence, and community resources and collaboration (Wood et al., 2017a). Site administrative staff distributed paper surveys and consent forms during routine meetings, and law enforcement personnel were invited to return completed surveys to a secure drop off location within a 24-hour time period. A total of 400 surveys were completed in three different law enforcement agencies within two of the study sites. Research staff entered the surveys into Qualtrics for analysis (Wood et al., 2017a).

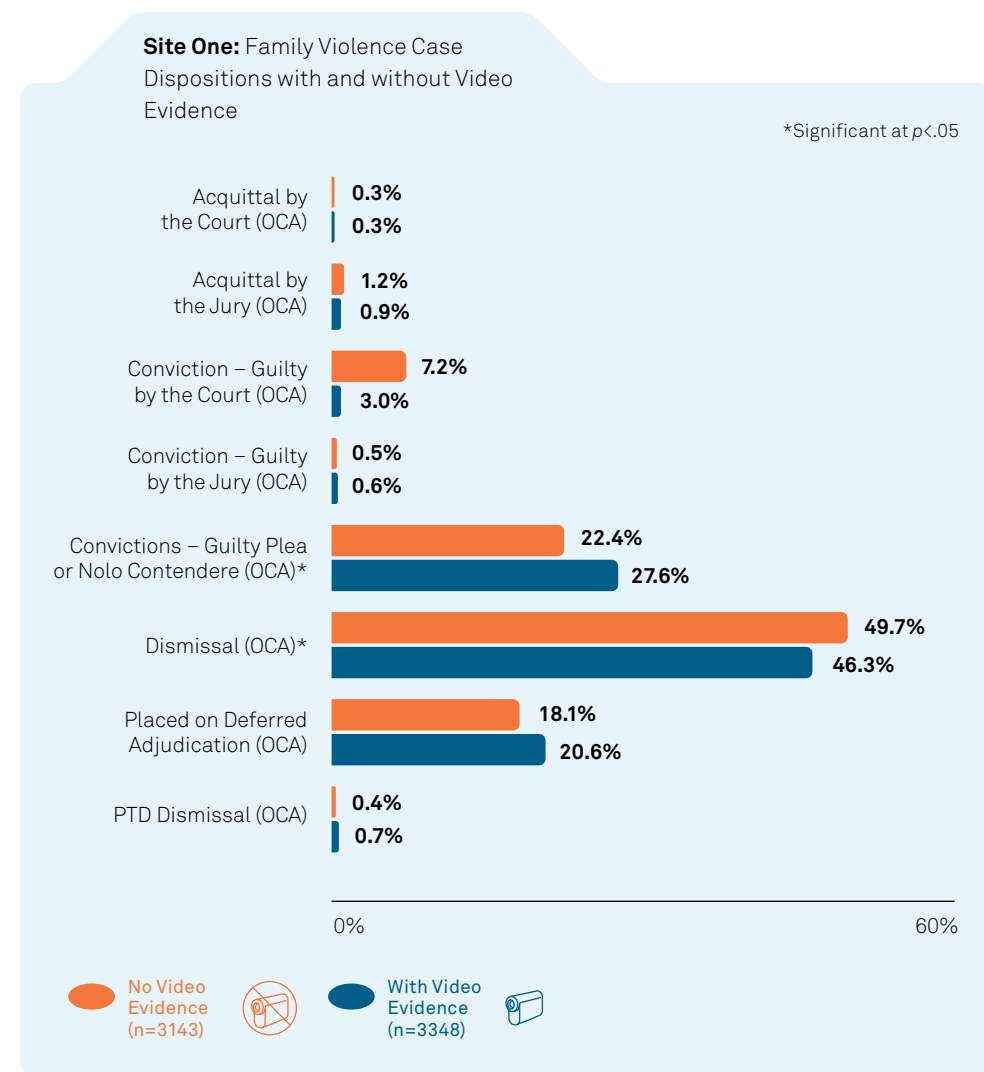
Closed criminal case data: The ReVEAL team worked closely with administrative and technology staff at each site to determine if and how closed case data could be made available for analysis. Quantitative analysis was attempted at three of the study sites: One, Two, and Four. However, the research team was not able to obtain a large enough sample for analysis at Site Four. All quanti-

tative findings are drawn from sites one and two, which are larger and more metropolitan than sites Three through Six. While the ReVEAL team explored the possibility of analyzing closed case data at the other sites, they ran into barriers including: reliance on paper files requiring significant time and effort to review and code; limited software infrastructure to generate reports or transfer data; delayed or denied access to electronic case portal data; and lengthy case processing times leading to a limited number of closed cases with relevant video evidence. In Phase I, a closed case sample of n=6,491 family violence cases was analyzed from Site One and coded for cases with video files included with the case, compared to those without video files, but was not coded by the content of the video file (see Wood et al., 2017b). To refine this approach and to understand the type of video included in each case, Site One granted the research team limited access to an online case management portal during Phase II. This allowed researchers to review cases and document both the case outcome and whether a victim video statement was present. A table of data sources and available case and demographic variables is included in the ReVEAL Interim Report (Backes et al., 2019). An initial review was conducted on a random sample of five hundred closed cases, of which approximately 332 contained a video statement (Backes et al., 2019). Site Two worked with the research team and developed a program to query case data from a relational database of case data. The ReVEAL team received a sample of n=1589 cases closed between 2015-2018, however findings were limited because only 27 cases contained video evidence (Backes et al., 2019).

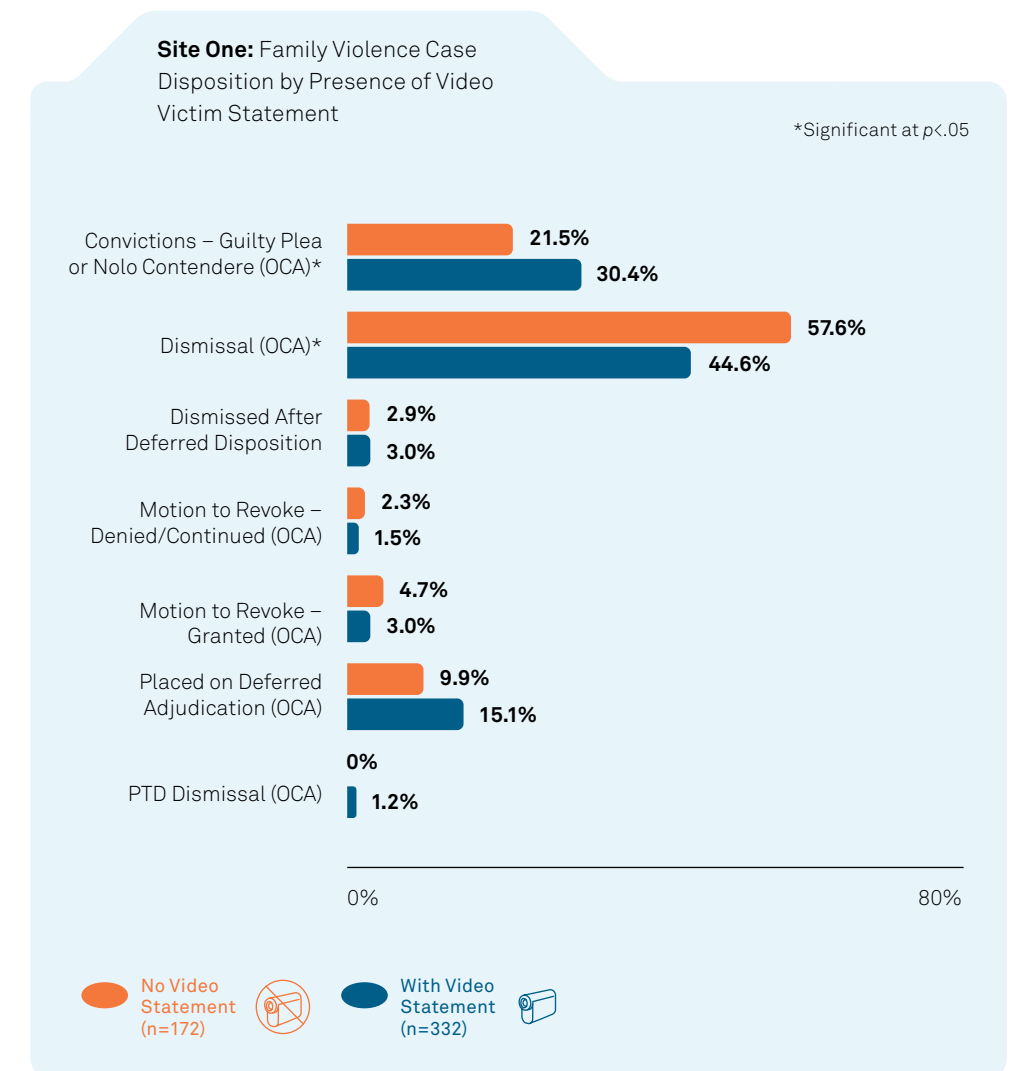
Key Results 6.4

Quantitative Findings

Study sites One and Two provided closed case data for the evaluation. In phase I of the study, the research team analyzed a sample of 6,491 closed cases from Site One that had been accepted for prosecution. The case outcome data was obtained from Site One's Office of Court Administrative (OCA). Figure 1 shows a comparison of case dispositions among cases with and without video evidence (Wood et al., 2017b). Cases with videos were significantly less likely to be dismissed (46.3% compared to 49.7%; $p < .05$) and more likely to result in a plea (27.6% compared to 22.4%, $p < .05$). Quantitative analysis from these two sites suggests video evidence has a positive impact on family violence case outcomes and is associated with more guilty pleas and fewer dismissals.



Findings from phase II confirmed and built on these results. The research team analyzed a random sample of five hundred ($n=500$) recently closed cases with incident dates ranging from 2016-2017 from Site One (Backes et al., 2019). Each case in the sample was reviewed in Site One's online portal in order to determine whether a video-recorded victim statement was present. Approximately 332 of the cases reviewed had a video-recorded victim statement (Backes et al., 2019). The research team compared case dispositions in the cases with and without a video-recorded victim statement. As illustrated in Table 2, video-recorded victim statements were significantly associated ($p < .05$) with guilty pleas with 30.4% compared to 21.5% in cases without a video statement. Video-recorded victim statements were also significantly associated ($p < .05$) with fewer dismissals with 44.6% compared with 57.6% to cases without a video statement (Backes et al., 2019). Combined quantitative findings provide initial support for the implementation of video-recorded statements as a promising practice in improving case outcomes in family violence cases.



Qualitative Findings

Qualitative findings from all three project phases largely support the positive impact of video evidence indicated by quantitative findings. Both law enforcement officers and prosecutors found video-recording to be a valuable tool in documenting, assessing, and prosecuting family violence cases. Study participants also felt that video statements deepened their understanding of family violence cases by documenting victims' fear and emotional demeanor following an incident (Wood et al., 2017b). Positive views about video-recorded evidence were also accompanied by practical considerations and concerns that are explored throughout the Implementation Guide. Implementation of a video evidence practice includes considerations such as the technological infrastructure needed to store and transfer video files, video-specific training and protocols, the questions and investigative practices that accompany video-recording, and more. Interviews with victims and victim advocates emphasized the critical importance of considering victim safety and privacy across all aspects of a video-recording practice.

Law enforcement participants used video-recorded statements to capture a thorough and accurate account of a family violence incident. Officers use video to supplement written statements, document victims' emotional demeanor, and obtain images of injuries and other key case elements. Law enforcement participants also emphasized the safety of officers and the people involved in a family violence incident when discussing video practices. Officers responding to family violence incidents must navigate risky and unpredictable circumstances, and extra equipment can present challenges to securing the scene and separating involved parties. Many participants favored body-worn cameras, which can record the entirety of a family violence incident scene while leaving officers' hands free. Officers typically begin recording with a handheld camera after a scene has been secured. At many sites, officers follow standard question protocols, but some study participants saw a need for more consistent adherence to victim questions and ongoing training. Training needs, additional practical considerations, and a more thorough comparison of body-worn and handheld camera technology are explored in-depth in the Law Enforcement Guide.

Prosecutors who participated in the ReVEAL study use video evidence in their initial case assessment and decisions about whether to accept a case for prosecution and whether to enhance or reduce charges. Video statements can be a critical piece of evidence as prosecutors build their case, often helping to establish a pattern of family violence or confirm injuries. While legal barriers related to rules of evidence and the *Crawford v. Washington* (2004) supreme court ruling limit prosecutors' ability to use video evidence during trial, video evidence still helps move cases forward in a variety of ways. Prosecutors use video statements in negotiations with defense attorneys to help secure plea deals, which participants saw as having cost-saving and time-saving effects by avoiding lengthy trials. Video statements can also serve as a powerful reminder of an incident for victims and witnesses who begin to recant or who no longer wish to proceed with the case.

Victim advocates play a critical role both in helping victims understand the role of video evidence and in helping both law enforcement and prosecutors engage with victims. Several sites participating in Project ReVEAL had a victim advocate within the district attorney's office or a law enforcement agency. Sites also partnered with victim advocates in the community to connect victims with support and services following a family violence incident. Victim advocates are an important partner in collaborative efforts between agencies such as high-risk teams dedicated to family violence. Advocates can support video practice by participating in ongoing training for officers and prosecutors, developing protocols for engaging with victims, and helping victims understand and navigate the criminal justice system.

Victims of family violence incidents expressed mixed reactions to video-recording. Some victims are glad that video offers an accurate account of what occurred, while others expressed a neutral opinion, seeing video as a routine part of an investigation. Victims also expressed several concerns including fears that the defendant might view the video and retaliate. Some victims expressed intimidation or discomfort with the experience of being video-recorded, while others expressed confusion about how video evidence would be used, stored, and accessed. Lastly, victims also expressed confusion about their rights to withdraw or to not provide a video statement.

Several factors strongly influence the implementation of a video-recording practice across study sites:

⦿ **IT Infrastructure and Storage**

Capabilities: Video-recording generates substantial digital storage needs for sensitive footage, and IT and software infrastructure varied across study sites. The technology used to store and access video evidence affected sites' ability to

efficiently transfer video evidence from law enforcement agencies to prosecutors. Sites emphasized the need to align data management systems across agencies, the need to improve practices of labeling and tagging video files, and the need to clarify policies related to retention and destruction of video evidence associated with closed cases.

⦿ **Interagency Collaboration:** The relationship between law enforcement agencies and district attorneys' offices also emerged as an important factor in the implementation of a video-recording practice. Close collaboration between agencies can help to identify and address training needs; ensure that video policies are consistent across agencies; and ensure practices are responsive to victims, especially when collaborative initiatives include victim advocates. Site-specific examples and case studies are included throughout the implementation guide, including collaborative case review practices and high-risk response teams.

⦿ **Type of Video Technology Adopted:** While Project ReVEAL initially focused on handheld cameras, study sites either had an existing body-worn camera program or began implementing body-worn technology during the course of the three-year study. Unique considerations for body-worn cameras and comparisons of camera technologies are offered throughout the implementation guide. Many officers prefer body-worn cameras for their hands-free and unobtrusive positioning. However, body-worn cameras also present challenges to obtaining a clear and focused image of victims and witnesses providing a statement. Body-worn cameras are also often turned on automatically as soon as officers arrive on scene, raising questions about how and when victims are informed of video-recording and given the opportunity to decline to give a video-recorded statement.

74

④ **Training and Protocols:** Camera technology and accompanying software and storage platforms continue to evolve, and researchers and practitioners are still learning many of the privacy and safety implications of video-recording following a family violence incident. Ongoing training is critical to maintaining consistent policies and practices and identifying and addressing emerging issues. While most sites have a question protocol developed for taking victim statements, some study participants noted that the protocols are not always used consistently. They also lack specific guidance about explaining the video practice to victims. Collaborative efforts to refine these protocols involving law enforcement, prosecutors, and victim advocates can help ensure that they address the indicators and case elements that are most important to prosecutors, and that protocols are responsive to victims.

④ **Rural Areas:** Study sites located in rural areas faced unique concerns that shaped their implementation of a video program. Rural sites did not have the same level of resources to invest in updates to technology, particularly the IT infrastructure and server space required to handle a large volume of video files. With limited software and IT infrastructure supporting a video practice, some jurisdictions have had to rely on the time-consuming process of creating DVD copies of video files. Rural sites also face an overall lack of community resources such as shelters or crisis centers for victims of family violence. While rural sites often leverage limited resources in creative ways, the overall lack of support services related to family violence impacts the experience of both victims and law enforcement. Lastly, officers who worked in smaller agencies sometimes responded to calls alone and found the video-recording equipment a helpful tool in documenting interactions without back up to support the investigation or safety of the officer gathering the victim statement.

Recommendations 6.5

The implementation guide that accompanies this summary report adds to the initial findings and promising practices for law enforcement, victim advocates, and prosecutors. Recommendations were developed through partnership with the study sites and interviews of professionals and victims within those communities.

- ④ **Law Enforcement:** Promising practices for law enforcement included holding weekly collaborative case review meetings, seeking input from victim advocates on policies and practices, partnering with other agencies to redistribute equipment, and coordinating responses through cross-training and multidisciplinary teams.
- ④ **Prosecutor:** Promising practices for prosecutors included exploring hearsay exceptions like excited utterance, developing policies for the efficient transfer and storage of video evidence, and increasing collaboration with law enforcement. Collaborative approaches include joint trainings, occasional ride-alongs with attorneys accompanying law enforcement on family violence calls, and multidisciplinary teams.
- ④ **Victim Advocates:** Promising practices for victim advocates included providing support to victims when they view a video, for example by showing the videos to the victims in private, comfortable spaces with an advocate or support person present. Other promising practices included using a 24-hour outreach team to follow up with victims within a day after the initial incident, and partnering with programs and services in the community or in nearby cities.

75

Several recommendations emerged related to technology and equipment. It is critical that jurisdictions invest in software and IT infrastructure to allow for the efficient transfer and storage of video evidence. Sites desired clear policies on the retention and destruction of video evidence. Sites also discussed a need to establish consistent procedures for tagging evidence and keeping sensitive video footage secure and private. Jurisdictions implementing or refining a video practice must carefully weigh the pros and cons of different camera models as technology continues to evolve. ReVEAL sites used both body-worn and handheld cameras to interview victims, and each came with benefits and challenges. Body-worn cameras may be better able to capture excited utterances and the initial impression of the scene. Handheld cameras allowed for better focus on the person giving a statement, easier tagging of videos, and the ability to zoom in on injuries. Handheld cameras required some set up and could only be used once the scene was secure, while the placement of body-worn cameras needed to be regularly adjusted to ensure the video captured the victims face during the statement.

Limitations 6.6

Project ReVEAL is a preliminary examination on the role of video evidence in family violence within one southwestern state and, as such, is exploratory in nature. Although the evaluation included six study sites through the course of the evaluation, the quantitative findings from closed case data are limited by the novelty of the practice and the length of time it takes for cases to be processed through the criminal justice system. Further, barriers to fully implementing the practice in all study sites, hesitancy from potential study sites for participation, and an expressed interest in family violence cases generally across all study sites suggests that there is a self-selection bias for those sites who ultimately were able to produce data as part of the evaluation.

Conclusion 6.7

Quantitative and qualitative findings both support the implementation of video practice in successful case outcomes. However, sites must continue to address key practical considerations and issues related to victim safety and privacy. Practical considerations include: choosing the right camera technology and accompanying software; developing effective policies and protocols guiding video practice and storage and retention of video evidence; and continuing to develop legal strategies for using video evidence to prosecute video evidence. Video practice should be developed and refined with a strong focus on victim engagement, privacy, and safety. Victim advocates are an important partner in these efforts, and the Implementation Guide links to additional resources that may be helpful.

Future research should incorporate statewide or multistate recruitment to improve the generalizability of the findings. It should also consider the larger issue of delays in case processing time limiting the availability of evidence to support practices that could affect offender accountability, victim safety, and support for evidence-based interventions for family violence. Additionally, it would be valuable to evaluate case data from the participating sites in the future to allow for cases that are currently open in the system to close. This would provide a more complete analysis of the video practice studied. Furthermore, a larger examination of video-recorded statements compared to written statements is needed to confirm preliminary findings across this project. Additional research considerations can be found throughout the Implementation Guide.

References 6.8

Backes, B., Wasim, A., LaMotte, J., Kammer-Kerwick, M., Wood, L., & McDonald, M. (2019). *Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL) 2.0: Case Characteristics and Initial Impact*. [Interim Report]. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault. Retrieved from: <https://sites.utexas.edu/idvsa/files/2019/05/ReVEAL-Interim-Report-.pdf>

Campbell, R., & Fehler-Cabral, G. (2018). Why Police “Couldn’t or wouldn’t” Submit sexual assault kits for forensic DNA testing: A focal concerns theory analysis of untested rape kits: Campbell & fehler-cabral. *Law & Society Review*, 52(1), 73-105. doi:10.1111/lasr.12310

Connell, J. P., & Kubisch, A.C. (1998). Applying a theory of change approach to the evaluation of comprehensive community initiatives: Progress, prospects, and problems. In K. Fulbright Anderson, A. C. Kubisch, & J. P. Connell (Eds.), *New Approaches to Evaluating Community Initiatives: Theory, Measurement, and Analysis* (pp. 15–44). Washington, DC: The Aspen Institute.

Crow, M.S. & Adrion, B. (2011). Focal Concerns and Police Use of Force: Examining the Factors Associated with Taser Use.

Crawford v. Washington, 541 U.S. 36. (2004) Freiburger, T. L., & Romain, D. (2018). An examination of the impacts of gender, race, and ethnicity on the judicial processing of offenders in family violence cases. *Crime & Delinquency*, 64(13), 1663-1697. doi:10.1177/0011128717743780

Freiburger, T. L., & Romain, D. (2018). An Examination of the Impacts of Gender, Race, and Ethnicity on the Judicial Processing of Offenders in Family Violence Cases. *Crime & Delinquency*, 64(13), 1663-1697.

International Association of Chiefs of Police (IACP). (2017). National Forum on Body-Worn Cameras and Violence Against Women. Retrieved from: <https://www.theiacp.org/resources/document/national-forum-on-body-worn-cameras-and-violence-against-women>

International Association of Chiefs of Police (IACP). (2018). Body-Worn Cameras and Violence Against

Women: Policy and Program Development. [Webinar]. Retrieved from: <https://www.theiacp.org/resources/webinar/body-worn-cameras-and-violence-against-women-policy-and-program-development>

Jeffries, S. & Bond, C.E.W., Taking the problem seriously? Sentencing Indigenous and non- Indigenous domestic violence offenders. *Australian & New Zealand Journal of Criminology*, 48(4), 463-482.

Kaplan, S. A., & Garrett, K. E. (2005). The use of logic models by community-based initiatives. *Evaluation and Program Planning*, 28, 167–172.

McPhedran, S. Gover, A., & Mazerolle, P. (2017). A cross-national comparison of police attitudes about domestic violence: *A focus on gender. Policing: an International Journal of Police Strategies & Management*, in press.

Steffensmeier, D., Ulmer, J., & Kramer, J. (1998). The Interaction of Race, Gender, and Age in Criminal Sentencing: The Punishment Cost of Being Young, Black, and Male. *Criminology*, 36(4), 763-798.

Weiss, C.H. (1995). Nothing as practical as good theory: Exploring theory-based evaluation for comprehensive community initiatives for children and families In New approaches to evaluating community initiatives: Concepts, methods, and contexts, edited by J. P. Connell, A. C. Kubisch, L. B. Schorr, and C. H. Weiss, 65-92. Washington, DC: Aspen Institute.

Wood, L., Wasim, A., Busch-Armendariz, N., Kammer-Kerwick, M., Bassett, M., & Kellison, B. (2017a). *Methods Report: Recording Victim Video Statements as Evidence to Advance Legal Outcomes in Family Violence Cases (ReVEAL): Determining Efficacy, Cost Efficiency, & Impact on Outcomes*. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault. Retrieved from: <https://sites.utexas.edu/idvsa/files/2019/03/ReVEAL-Methods-Report-formatting.pdf>

Wood, L., Wasim, A., Busch-Armendariz, N., Kammer-Kerwick, M., Bassett, M., & Kellison, B. (2017b). *Project ReVEAL: Preliminary Findings Report*. Austin, TX: The University of Texas at Austin Institute on Domestic Violence & Sexual Assault. Retrieved from: <https://sites.utexas.edu/idvsa/files/2019/03/Project-Re->

Project ReVEAL:

Appendices

7

80

81

1. Background and Overview
2. Guidance for Law Enforcement
3. Guidance for Prosecutors
4. Guidance for Victim Advocates
5. Technology and Equipment Guidance
6. ReVEAL Summary Report
- 7. Appendices**

APPENDICES

APPENDICES

Appendix A Site Overview

Basic Site Information

Site	Region	Population	Density	Camera Type
SITE 01	West	649,121	Urban	<ul style="list-style-type: none"> Adopted handheld video-recording practice in 2011 Body-worn camera video-recording practice was adopted in 2017
SITE 02	Southwest	236,091	Urban	<ul style="list-style-type: none"> Handheld video-recording practice launched in 2016 Some officers utilize body-worn cameras
SITE 03	South	23,158	Rural	<ul style="list-style-type: none"> Officers have access to handheld cameras and some have access to body-worn cameras Handheld video-recording practice launched in 2016 with some barriers to implementation
SITE 04	Central	108,472	Mid-sized	<ul style="list-style-type: none"> Handheld video-recording practice established in 2015 Body-worn video-recording practice in place in 2017
SITE 05	North	13,535	Rural	<ul style="list-style-type: none"> Previously established body-worn camera recording practice in place
SITE 06	Central	24,756	Rural	<ul style="list-style-type: none"> Handheld video-recording practice launched in 2016-2017 Some officers have body-worn cameras

Site labels are not consistent with previous Project ReVEAL publications. Specifically, Site 4 was labeled Site 3 in some previous publications. Demographic data for sites pulled from U.S. Census Bureau (2010).

Site 1

Site One was an urban area on the southwest border of Texas with approximately 80% of the residents identified as Hispanic/Latino, and 70% of families speak a language other than English in the home (U.S. Census Bureau, 2010). The median income was \$42,037 with an average household size of 3.03 (U.S. Census Bureau, 2010). The municipal police department at site one launched their handheld video-recording practice in 2011, prior to the study's start. During the course of the study, site one began using body-worn cameras in 2017.

Site 2

Site Two was an urban area on the southwest border of Texas with 95.6% of the population at Site Two identified as Hispanic/Latino, and 91.1% of families spoke a language other than English in the home (U.S. Census Bureau, 2010). The median income was \$39,408 and the average household size was 3.72. At the start of this study, this jurisdiction was not using video-recording technology in family violence cases. In 2016, the site established handheld video-recording practice.

Site 3

Site Three was a rural area on the southern coast of Texas. Approximately 70.6% identified as white, non-Hispanic/Latino and 24.6% identified as Hispanic/Latino (U.S. Census Bureau, 2010). The median household income was \$42,247 with an average household size of 2.46 (U.S. Census Bureau, 2010). When the study began, this site had not established video-recording practices. Site Three participated only in the first phase of Project ReVEAL.

Site 4

Site Four was a mid-sized jurisdiction in Central Texas. The jurisdiction is comprised of a small city and the surrounding towns and rural areas. Sixty-seven percent of the population identified as white, non-Hispanic/Latino and 26.8% identified as Hispanic/Latino (U.S. Census Bureau, 2010). The median income was \$73,655 with an average household size of 2.71 (U.S. Census Bureau, 2010). Site Four started participating in the study during the second phase of Project ReVEAL. The site established a handheld video-recording practice in 2015 and a body-worn camera practice in 2017.

Site 5

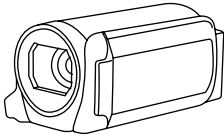
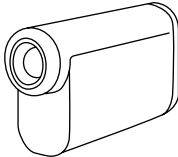
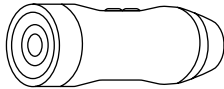
Site Five was a rural area in North Texas. Approximately 57.6% of the population identified as white, non-Hispanic/Latino, 29.5% identified as Hispanic or Latino, and 8.2% as Black or African American (U.S. Census Bureau, 2010). The median household income was \$43,913 and the average household size was 2.39 (U.S. Census Bureau, 2010). During the third phase of Project ReVEAL, Site Five joined the study. Site Five had established body-worn video-recording practices prior to participation in the study.

Site 6

Site Six was rural jurisdiction in Central Texas. Approximately 61.9% of the population identified as white, non-Hispanic/Latino, 26.9% identified as Hispanic/Latino, and 9.5% identified as Black or African American (U.S. Census Bureau, 2010). The median household income was \$41,766 with an average household size of 2.54 (U.S. Census Bureau, 2010). Site Six joined Project ReVEAL during the third phase of the study. Site Six primarily utilized handheld video evidence starting in 2017 with some officers having access to body-worn cameras.

Appendix B Camera Equipment Inventory

The following options were provided to jurisdictions selected for camera equipment and grant recipients identified the equipment to be used in their jurisdiction.

Equipment Type	Camera package includes
 <p>SONY HDR-AS200V ACTION CAM</p>	<ul style="list-style-type: none"> ⊕ 64gb SD card ⊕ Watertight case ⊕ Extra battery ⊕ SD card reader ⊕ Small tripod ⊕ Flash bracket and LED video light
 <p>CANON VIXIA HF R60 HD CAMCORDER</p>	<ul style="list-style-type: none"> ⊕ 32gb/163x SD card ⊕ Watertight case ⊕ Extra battery ⊕ SD card reader ⊕ Small tripod ⊕ Flash bracket and LED video light
 <p>PANASONIC AX-1 ACTION CAM</p>	<ul style="list-style-type: none"> ⊕ 64gb SD card ⊕ Watertight case ⊕ Extra battery ⊕ SD card reader ⊕ Small tripod and mount

Appendix C Resources

Danger Assessment

The Danger Assessment, developed by Dr. Jacquelyn Campbell, was used by one site to assess the victim's safety. This tool can be used to assess the severity and frequency of domestic violence and can be helpful for the victim and providers in making decisions for safety. To learn more about the Danger Assessment, please visit www.dangerassessment.org.

The International Association of Chiefs of Police (IACP)

The IACP has compiled documents, tools, and sample policies on using [Body Worn Cameras](#). Additionally, the IACP has compiled resources from its [National Forum on Body Worn Camera and Violence Against Women](#). To find out more, please visit www.theiacp.org.

Aequitas

Aequitas is a resource center for prosecutors specifically for gender-based violence crimes. They have compiled information on legal precedent such as [Crawford v. Washington](#) and information on [body-worn cameras](#) and video evidence. A complete library of resources can be found at <https://aequitasresource.org/resources/>.

Center for Evidence-Based Crime Policy at George Mason University

The Center for Evidence-Based Crime Policy has published a report, [Body Worn Cameras and the Courts: A National Survey of State Prosecutors](#), on the use of body worn cameras by prosecutors. Please visit www.cebcp.org to find out more.

Texas Judicial Branch

Texas's Supreme Court approves the rules and standards for the state of Texas. [Texas's Rules of Evidence](#) can be found at www.txcourts.gov.

Office of the Texas Governor-Criminal Justice Division

The Criminal Justice Division of the Office of the Texas Governor provides funding opportunities for municipalities such as the [Body-Worn Camera Program](#). To find out more, please visit gov.texas.gov

Appendix D

Sample Protocols

This appendix includes a range of sample protocols used to take victim video statements, implementing a body-worn camera program, interviewing witnesses, and conducting targeted risk assessments or supplemental protocols related to strangulation and injury. These sample policies were adapted from examples provided to the research team from evaluation sites and are intended to be general in nature. These protocols are just examples. Formalized protocols for your jurisdiction should be developed as a collaborative process between law enforcement, prosecution, advocates, and other relevant stakeholders and be aligned with current practices and policies.

Sample 1: Taking a Video Victim Statement

Sample provided by study site for informational purposes

- 01 Identify yourself, state the date and time, and location you are recording.
- 02 Have victim(s) state their name and DOB, then allow them to tell you what happened in their own words. Ask follow up questions to get all information needed.
- 03 Document their injuries and the scene if needed to show damage to house, room, or property.
- 04 Ask them if this has ever happen before and if so what city or agency investigated, and offer supportive assistance such as calling a victim counselor to provide safety planning, offer an Emergency Protective Order, and provide information about what will happen next if an arrest is made.
- 05 Interview any witnesses and get them to explain what occurred. Please do not interview children as the detective will have them interviewed at a later date.

Sample 2: Questions for Interviewing Witnesses

Sample provided by study site for informational purposes

- 01 What is your name?
- 02 What is the offender's name? Date of birth? Age?
- 03 What is your relationship with the offender?
- 04 Do you have children? If so, do you have children together?
- 05 What happened?
 - a. Manner and means- How did he/she ___ you? With what? How many times? Where?
 - b. Strangulation cases only- Could you breathe?
- 06 Did you feel pain at the time of the assault?
- 07 Did you give her/him permission to assault you?
- 08 Did you do anything physical to the offender before he assaulted you?
- 09 Did you threaten the offender in any way (verbal/objects)?
- 10 Did anyone witness the assault?
If so, names, ages, address, telephone number, social security number, date of birth
- 11 Is this the first time he/she ___ you?
If not, please explain the other times
- 12 Are you scared of the defendant?

Sample 3: Questions for Interviewing Witnesses

Sample provided by study site for informational purposes

- 01 Who called the police?
- 02 Can you tell me why you called the police for help or why you think the police were called?
- 03 Are you hurt?
- 04 Are you feeling any soreness, tenderness, or pain anywhere on your body?
- 05 It looks like someone hit you; can you tell me what happened?
- 06 Have you been struck, hit, or injured in some other way?
- 07 Where on your body were you hit?
- 08 Who hit you?
- 09 What did this person hit you with?
- 10 How were you hit? Was an object or weapon used?
- 11 Were you hit with an open or closed hand?
- 12 Has this person ever hit or hurt you before?
- 13 How many times were you hit?
- 14 Has anything been broken or damaged?
- 15 Has anything been thrown directly at you or near you?
- 16 Are you pregnant?
- 17 What happened?
- 18 What did you feel was going to happen?
- 19 Describe how (abuser) was acting? What was said to you?
- 20 What did (abuser) do or say to make you feel afraid?
- 21 Were any threats made against you? Against your children or other family members? What were these threats?"
- 22 What are your fears or concerns if the suspect is arrested? Have any statements or threats been made to you by the suspect when you have sought assistance?

Sample 4: Strangulation Protocol

Sample provided by study site for informational purposes

CASE # _____ TODAY'S DATE: _____ DATE OF ASSAULT: _____

VICTIM INFORMATION
(To be completed by Officer)

Victim's Name (last, first, middle): _____ DOB: _____ Race: Sex: _____

* Method and/or Manner (How was Victim strangled) One Hand - R One Hand - L Two Hands Forearm Knee/Foot
 Chokerhold Other (explain) _____

* Is the Suspect right or left handed? Right Handed Left Handed

* Estimate how long you were strangled Minute(s) _____ Second(s) _____ Multiple times? Yes, # of times _____ No

Estimate Pressure Used (check) 1 2 3 4 5 6 7 8 9 10 (1=WEAK - 10= EXTREMELY STRONG)

* Suffocated? Yes No Minute(s) _____ Second(s) _____ What was used? _____

* What did Suspect say during strangulation/suffocation? _____

* Describe Suspect's demeanor during strangulation/suffocation? _____

* Describe how Suspect's face looked during strangulation/suffocation? _____

* What made Suspect stop? _____

* What did Victim think was going to happen during strangulation/suffocation? _____

* Has Suspect strangled/suffocated you before? Yes # of times _____ No

* Did you attempt to physically stop the strangulation? Yes No Describe: _____

* Were you shaken simultaneously while being strangled? Yes No

VICTIM'S SYMPTOMS
TO BE COMPLETED BY OFFICER

SYMPTOMS	DURING	AFTER	VOICE CHANGES	SWALLOWING CHANGES
unable to breathe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> painful to speak	<input type="checkbox"/> neck tenderness
difficult to breathe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> raspy/hoarse voice	<input type="checkbox"/> trouble swallowing
physical pain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> coughing	<input type="checkbox"/> painful to swallow
rapid breathing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> unable to speak	<input type="checkbox"/> neck pain
shallow breathing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> wheezing	<input type="checkbox"/> other _____
nausea	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> other _____	
vomiting/dry heaving	<input type="checkbox"/>	<input type="checkbox"/>	Explain other _____	
dizziness	<input type="checkbox"/>	<input type="checkbox"/>		
headache	<input type="checkbox"/>	<input type="checkbox"/>		
lightheaded	<input type="checkbox"/>	<input type="checkbox"/>		
disoriented	<input type="checkbox"/>	<input type="checkbox"/>		

* Loss of consciousness? Yes No Victim not sure Unexplained Injury? Describe: _____

* Any change or loss of hearing during/after strangulation/suffocation? Yes No Describe: _____

* Any change or loss of vision during/after strangulation/suffocation? Yes No Describe: _____

* How did your body/head feel during/after strangulation/suffocation? Describe: _____

* Did the victim... Urinate Defecate Feel the urge to do one or both?

Sample 5: Body Worn Camera Policy

Adopted from the Texas Commission on Law Enforcement sample body-worn camera policies. Additional information can be found at tcole.texas.gov.

Mobile Audio/Video Recording Systems

Policy: It is the policy of AGENCY NAME that officers shall activate mobile audio/video recording equipment and body worn cameras when such use is appropriate to the proper performance of their official duties, and where the recordings are consistent with this policy and state law. This policy does not govern the use of surreptitious recording devices used in undercover operations.

Purpose: The purpose of this policy is to provide guidelines and procedures for use, maintenance, and management of the mobile audio/video recordings systems and equipment, to include body worn cameras.

Departmental Equipment Procedures

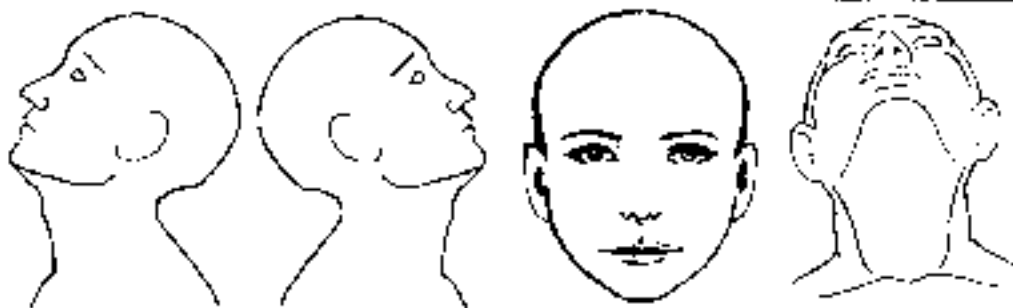
Maintenance of Equipment - All members of AGENCY NAME shall ensure that mobile audio/video recording equipment and body worn cameras are maintained in a state of operational readiness. Equipment malfunctions will be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured.

Data Security - The AGENCY NAME tightly controls and enforces the security of all mobile and body worn camera audio/video recordings. These security features include but are not limited to:

- (a) The control of access to video files located on the video recording system.
- (b) Audit logs of all videos accessed, uploaded, and downloaded. This audit log monitors all user's activity by login ID and tasks performed.
- (c) Any violations of departmental policy are immediately reported to proper personnel along with the audit log files.

Agency personnel are not authorized to view, edit, delete or download videos without the authorization from AGENCY NAME Command Staff.

System Storage - The AGENCY NAME manages and maintains the backup and maintenance of data contained on the Digital Evidence Management System. The backup methods utilized ensure that all audio/video recordings that have successfully uploaded to the management system remain intact and safe in the event of a server crash. The Evidence Division maintains additional back-up videos. Agency personnel cannot retrieve or provide copies of video without the approval from the AGENCY NAME Command Staff.

<input type="checkbox"/> red or flushed <input type="checkbox"/> petechiae <input type="checkbox"/> scratch(es) or abrasion(s) <input type="checkbox"/> swelling <input type="checkbox"/> bruise(s) <input type="checkbox"/> Other: Explain Other:	<input type="checkbox"/> petechiae to R eye <input type="checkbox"/> petechiae to L eye <input type="checkbox"/> petechiae to R eyelid <input type="checkbox"/> petechiae to L eyelid <input type="checkbox"/> blood in eyeballs <input type="checkbox"/> Other:	<input type="checkbox"/> petechiae <input type="checkbox"/> scratch(es) or abrasion(s) <input type="checkbox"/> swelling <input type="checkbox"/> Other:	<input type="checkbox"/> petechiae on ear(s) <input type="checkbox"/> bleeding from ear(s) <input type="checkbox"/> bruising/dyscoloration <input type="checkbox"/> petechiae behind ears <input type="checkbox"/> Swelling <input type="checkbox"/> Other:
MOUTH <input type="checkbox"/> bruise(s) <input type="checkbox"/> swollen tongue <input type="checkbox"/> swollen lip(s) <input type="checkbox"/> scratch(es)/abrasion(s) <input type="checkbox"/> petechiae in palate <input type="checkbox"/> Other:	UNDER CHIN <input type="checkbox"/> redness <input type="checkbox"/> scratch(es)/abrasion(s) <input type="checkbox"/> laceration(s) <input type="checkbox"/> bruise(s) <input type="checkbox"/> fingernail impression(s) <input type="checkbox"/> Other:	CHEST <input type="checkbox"/> redness <input type="checkbox"/> scratch(es)/abrasion(s) <input type="checkbox"/> laceration(s) <input type="checkbox"/> bruise(s) <input type="checkbox"/> Other:	SHOULDERS <input type="checkbox"/> redness <input type="checkbox"/> scratch(es)/abrasion(s) <input type="checkbox"/> laceration(s) <input type="checkbox"/> bruise(s) <input type="checkbox"/> Other:
NECK <input type="checkbox"/> redness <input type="checkbox"/> tenderness/pain <input type="checkbox"/> finger mark(s) <input type="checkbox"/> scratch(es)/abrasion(s) <input type="checkbox"/> fingernail impression(s) <input type="checkbox"/> bruise(s) <input type="checkbox"/> ligature mark(s) <input type="checkbox"/> petechiae <input type="checkbox"/> swelling <input type="checkbox"/> Other:	HEAD <input type="checkbox"/> petechiae on scalp or head <input type="checkbox"/> laceration(s) <input type="checkbox"/> scratch(es)/abrasion(s) <input type="checkbox"/> hair pulled <input type="checkbox"/> hump(s) <input type="checkbox"/> Other:		
PLEASE TAKE PHOTOGRAPHS Diagram all injuries on the Victim			
			
Describe any other injuries or symptoms:			

Accountability - All personnel shall be responsible for the accountability of the property and equipment issued and/or utilized by to effectively perform their job functions and duties. Body worn cameras are the responsibility of individual officer and will be used with reasonable care to ensure proper functioning.

Acquisition of Equipment - Officers shall be issued standard body worn camera equipment by the Logistics Coordinator. The Logistics Coordinator shall document the equipment assigned to the employee. Upon separation from the agency, the employee shall surrender all required property and reconcile any losses.

Distribution of Equipment - The Logistics Coordinator shall be responsible for issuing or distributing required mobile audio/video recording and body worn camera equipment according to the needs of members of the department.

Use of Departmental Equipment - Members shall use departmental equipment in accordance with established departmental procedures and directives. Members shall not, intentionally or through negligence, abuse, damage, or lose departmental equipment. Members observing that departmental property has been damaged, lost, or malfunctioning, shall report the same to their supervisor as soon as possible, and shall be held accountable for the security, safety, and condition of said property.

Off-duty Use of Mobile Audio/Video Recording and Body Worn Camera Equipment - Officers working extra employment shall use their mobile audio/video recording and body worn cameras while working extra employment if the employment is police or security related and approved by the department.

Use of Audio/Visual Recording and Body Worn Camera Equipment - Audio/visual recording equipment shall be used in accordance with state and federal laws and only for a law enforcement purpose. In addition, no member shall record or monitor another member without the second member having prior knowledge that he/she is being recorded or monitored. However, the Chief of Police or his/her designee may authorize exceptions for just cause or during internal/criminal investigations. Members shall assume that audio and/or visual recording equipment is activated under the following circumstances:

- (a) While transmitting on a department radio channel.
- (b) While speaking on a departmental telephone.
- (c) While in the vicinity of fixed microphones and/or cameras within the Department such as the booking office, jail cell areas, Sally Port area, DWI video room, etc.
- (d) While in the vicinity of a Patrol Vehicle equipped with a video camera systems.

No member shall use departmental audio and/or visual recording equipment for his personal use.

Use of Personal Recording Equipment While on Duty - Members may not use personal audio and/or visual recording equipment while on duty.

Mobile Audio/Video Equipment Training - Officers who are assigned a body worn camera, and any other personnel who will come into contact with audio/video data obtained from body worn camera, must complete an agency approved and/or provided training program to ensure proper use and operation. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, performance, and to incorporate changes, updates, or other revisions in policy and equipment.

Retention Requirements - All recordings shall be retained for a period of not less than 90 days. Officers are required to submit audio/video recordings as evidence pursuant to the guidelines in Best Practices "Collection and Preservation of Evidence". These recordings shall be categorized and added the appropriate electronic media case file through department utilized Digital Evidence Management System. The recordings will be retained based on the statute of limitations of the case.

Release of Recordings - Recordings made using mobile audio/video equipment or body worn cameras pursuant to this policy are department records and may only be released as provided by Open Records Act / Texas Public Information Act or for other authorized legitimate department business purposes. Release of body worn camera recordings shall conform to the guidelines established in Texas Occupations Code 1701.661.

Review of Recordings - When preparing written reports, members should review their recordings as a resource. However, mobile video and body worn camera recordings are not a replacement for written reports. Members shall not retain personal copies of any recordings.

Officers shall be given access to any recording of an incident involving the officer before the officer is required to make a statement.

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 the member's performance.

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 the Open Records Act / Texas Public Information Act.

Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

Those reviewing video recordings should be aware that the video camera is two dimensional and may not capture everything as seen by the wearer. Due to the position of the camera, the view may be blocked by the wearer's arms, hands or other objects as the wearer moves or engages with a member(s) of the public.

Mobile Audio/Video Equipment Procedures

Mobile Audio/Visual Equipment Procedures - Officers assigned to patrol vehicles equipped with audio/video recorder systems shall adhere to the following listed procedures.

- ⦿ The officer shall affix a microphone and transmitter to his/her person and shall ensure that the transmitter and receiver are set to the same frequency and working properly.
- ⦿ Officers will inspect and test the body worn camera prior to each shift in order to verify proper functioning. Officers will also ensure the secondary camera strap is attached to both the body worn camera and the uniform to prevent the body worn camera from being misplaced. The strap can be threaded from the attached clip through the loop, button, epilate or snap of the officer's uniform.
- ⦿ Officers are required to submit video and audio recordings as evidence pursuant to the guidelines listed in Best Practices "Collection and Preservation of Evidence", when said recordings contain any contact with potential witnesses, suspects, or depict any other duties performed at the scene that has the potential to result in an arrest or investigation leading to a possible arrest of any persons involved.
- ⦿ The microphone and transmitter shall be placed in the charging cradle of the Patrol Vehicle when not in use and shall remain in the vehicle at the conclusion of tour of duty.
- ⦿ Officers shall not intentionally direct a person out of the camera's field of view for the purpose of not having the contact visually recorded or turn off the microphone while contact is being made.
- ⦿ Officers shall not erase, destroy, record over, tamper with, make unauthorized copy, or otherwise alter an audio/video recording obtained from department audio/visual recording equipment. Officers shall not permit another person of doing the same course of conduct.

Mobile Audio/Video Recording Systems - Officers assigned to patrol vehicles equipped with audio/video recorder systems shall activate their audio and video recording systems when responding to and under the following conditions:

- ⦿ All enforcement and investigative contacts to include traffic and pedestrian stops and field interviews.
- ⦿ All criminal investigations.

- ⦿ Anytime an officer is in contact with a citizen or suspect when it is feasible that the video system may record all or part of the contact.
- ⦿ Anytime the officer's emergency lighting is activated while responding to a call for service.
- ⦿ Any officer involved in a fleet collision shall, unless physically unable to, immediately activate their video and audio recording system.
- ⦿ Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Body Worn Cameras - While no officer shall be required to keep a body worn camera activated the entire shift, officers equipped with body worn camera systems shall activate their audio/video recordings under the following conditions:

- ⦿ All enforcement and investigative contacts to include traffic and pedestrian stops and field interviews.
- ⦿ Anytime the officers respond directly pursuant to a call for service or request for police assistance.
- ⦿ Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
- ⦿ Any decision not to activate the body worn camera because it is unsafe, unrealistic, or impracticable will be based on whether a reasonable officer under the same or similar circumstances would have made the same decision.
- ⦿ Officers may choose to not activate or discontinue a recording in progress when the event includes an extended contact that is not confrontational (including an interview with a witness or victim), or when on extended perimeter or on a prolonged event.
- ⦿ Officers shall not discontinue the use of the body worn camera once it is in use if dictated by this policy to record. If an officer fails to activate the body worn camera, fails to record the entire contact, or interrupts the recording, or in the event of equipment malfunction, the officer will document why a recording was not made, was interrupted, or was terminated in the officer's report, supplemental report, or call for service.
- ⦿ Body worn camera video shall be downloaded at the conclusion of the shift. All body worn camera video recorded while in transit from the assigned workplace or recorded while in transit to or from or while working an approved extra employment shall be downloaded at the next assigned regular duty shift unless that shift is scheduled outside of an 80 hour period. All exceptions must be approved and documented by a supervisor.

Sample 6: Body Worn Camera Policy

Adopted from the Texas Commission on Law Enforcement sample body-worn camera policies. Additional information can be found at tcole.texas.gov.

1. Introduction

The purpose of this procedure is to establish guidelines for the operation of body worn camera equipment assigned to peace officers for capturing audio/video evidence of police interactions including, but not limited to, traffic violations, field interviews, field sobriety testing, other official police activity.

2. Policy

A. It is the policy of the AGENCY NAME to present for prosecution audio/video evidence of traffic and other law violations as outlined in Section 5. To this end, officers with properly functioning body worn camera equipment shall record all events surrounding the contact, stop, detention, interview and arrest of suspected violators and maintain this recorded evidence for consideration in criminal prosecution.

B. All recordings generated on department-owned body worn camera equipment is the property of the AGENCY NAME. The copying or reproducing of any recordings generated by members of the department for use outside of department business is prohibited. The DESIGNATED DIVISION/STAFF PERSON will process requests for copies.

C. Distribution of any recordings generated by department members in any format or for any purpose must be in compliance with this procedure and applicable unit SOPs.

3. Administrative

A. All generated recordings will be retained according to Section 14 of this procedure.

B. Recordings shall not be altered, modified, misused, tampered with or any disabling of the body worn camera system in any manner.

C. Standardized viewing privileges of recordings for administrative and investigatory purposes shall be as follows:

- 01 All officers will be able to view their own recordings;
- 02 Detective Investigators and above will have viewing privileges for all recordings.

4. Start Up

A. At the start of their shift, officers will perform a function test of the body worn camera to ensure the unit powers on and recording initiates. The test should:

- 01 Ensure proper alignment and positioning of the body worn camera on the officer's outer most garment and no object shall be placed in front of the camera

in such a manner that it interfere with recording of video.

- 02 Perform a functions test by activating the body worn camera, and stating their name, badge number and the date. (If possible, the officer will then play back the recording to ensure the system recorded correctly.)

5. Recording

A. Officers are not required to advise citizens they are being recorded or show any citizen a video which they recorded.

B. Officers shall begin recording the event and continue recording, in accordance with this procedure, until the event is concluded; any deviations, including equipment malfunctions, must be documented in the officer's video or report in accordance with section 6 of this procedure.

- 01 Upon observation of suspicious or criminal behavior;
- 02 All calls for service;
- 03 Officer initiated contacts:
 - a. Arrest
 - b. Field Contacts
 - c. Traffic Stops
- 04 During all prisoner or witness transports. If an officer arrives at a facility that is recorded, such as headquarters or the Magistrate's Office, the officer may cease recording upon entering the facility or transferring custody of the prisoner/witness;
- 05 Contact with complainants regarding crimes against persons; and
- 06 In instances where the officers reasonably believes that the recording may provide evidence in criminal investigations.

C. Subsequent arrest, handcuffing, and search of violators should take place in view of the camera when practical and in accordance with Departmental policy and this procedure. All arrests, handcuffing, and searches occurring out of view of the camera must be documented in the officer's video or report in accordance with section 6 of this procedure.

D. Officers may stop recording an event where its use may compromise police operations. The body worn camera should be turned back on immediately following the stoppage or should a significant event arise.

- 01 Examples include, but are not limited to: conversations with criminal informants, private conversations between officers or supervisory personnel, working traffic control, performing crime scene duties, or situation where the officer would be placing in a tactical disadvantage.

E. All stoppages, other than administrative functions testing or accidental activation, of the body worn camera must be documented in the officer's video or report in accordance with section 6 of this procedure.

F. Recording Suspected DWI Violators

- ① When an officer makes a decision to start an investigation of a violator, the officer shall activate the body worn camera and may verbally articulate the initial traffic violation observed, thus starting the process of building reasonable suspicion. This articulation should continue through the entire recording including the field sobriety testing, arrest, search and transportation of the suspect.
- ② Optimum lighting for recording should be considered whenever possible.
- ③ The officer should articulate reasonable suspicion and probable cause as it develops.
- ④ Any intoxicants found in the suspect vehicle, as well as any evidence seized, shall be brought in view of the camera and the officer shall articulate the description of the evidence in order to record such information in the officer's video, report in accordance with section 6 of this procedure.

G. Officers shall not:

- ① Intentionally create recordings of themselves or other employees in areas where a reasonable expectation of privacy exists such as locker rooms, restrooms, etc.
- ② Use the body worn camera for the clandestine recording of the voice or image of a member of the Department as it is prohibited unless specifically authorized.
- ③ Knowingly record undercover officers or confidential informants.
- ④ Use a departmentally owned recording device to record any type of personal activities.
- ⑤ Allow non-sworn personnel to view the body worn camera video without permission from the officer's immediate supervisor. Governmental employees who are directly involved in the investigation and/or prosecution of a criminal case related to the body worn camera video or who work in Internal Affairs or IT Services supporting body worn camera are exempt from this provision.
- ⑥ Create recordings in patient care areas of medical facilities unless the recording is for official police business such as a criminal investigation, dying declaration, Horizontal Gaze Nystagmus (HGN) on injured drivers, or a specific call for police service; in compliance with Federal HIPPA regulations.

6. When Deactivation of Body Worn Camera Equipment is Authorized

- A. Unless otherwise permitted by this procedure, once the body worn camera is activated it shall remain on until the incident has concluded.
- B. For the purpose of this section, conclusion of the incident has occurred when:
 - ① All arrests have been made and arrestees have been transported and released from the officer's custody;
 - ② All witnesses and victims have been interviewed; and

- ③ The continued recording will not serve to obtain additional evidence.

C. Whenever the body worn camera device is deactivated during an incident the officer will provide a brief verbal explanation for the deactivation prior to turning off or stopping the recording and will document it via a report.

D. Failure to record activities as denoted in this policy will not be considered a policy violation as long as reasonable justification is documented via a report and articulated to the officer's chain-of-command.

7. Reports/Recording Data Entry

A. Officers will upload video in accordance with the specific device's operational instructions.

B. Prior to uploading body worn camera recordings the officer shall ensure the pertinent data field identifiers associated with each video have been annotated, and at minimum, include the following:

- ① Full AGENCY NAME case number for all arrest cases or incidents requiring a case number;
- ② Traffic citation number(s) in the additional data/notes field; and
- ③ The appropriate video tag at the conclusion of each incident or when uploading video files.

C. Officers shall annotate in their reports the existence or absence of any associated recordings.

8. Equipment

A. On an individual basis, officers will sign for and be issued a body worn camera as well as the device's associated accessories. It will be the officer's responsibility to ensure the body worn camera device is fully charged and operable prior to their tour of duty.

B. No member assigned body worn camera equipment shall alter, modify, reuse, tamper with or disable the device or associated accessories in any manner.

C. Department body worn camera equipment shall not be connected to unauthorized computers. Non-department-issued equipment shall not be connected to any department-issued body worn camera device.

D. Officers assigned body worn camera equipment are responsible for ensuring the equipment remains in operating condition. Officers shall notify their immediate supervisor of damaged or malfunctioning body worn camera equipment. Damaged body worn camera will be returned to the body worn camera Program Manager or their designee.

E. Lost body worn camera will be documented via an officer's report and reported to their immediate supervisor and the body worn camera Program Manager or their designee.

F. Replacement body worn camera will be issued by the body worn camera DESIGNATED DIVISION/STAFF PERSON or their designee.

G. Officers promoting or who will be reassigned to duties where they will not be utilizing the body worn camera will return their body worn camera to the body worn camera DESIGNATED DIVISION/STAFF PERSON or their designee within 72 hours of the transfer.

9. Video Copies/Records Requests

A. Requests for recordings will be handled in accordance with the Texas Public Information Act.

B. A copy (for internal use only) of recordings may be requested through the DESIGNATED DIVISION/STAFF PERSON or their designee. If such copy is provided, the DESIGNATED DIVISION/STAFF PERSON or their designee shall not further copy except the file.

C. Requests for recordings from other criminal justice agencies are to be submitted in writing on agency letterhead and signed by the agency's chief executive officer to the DESIGNATED DIVISION/STAFF PERSON or their designee.

D. The DESIGNATED DIVISION/STAFF PERSON or their designee will produce all copies of recordings. A copy is defined as a reproduction of the primary recording of the event.

E. Requests for recordings for prosecutorial purposes may be submitted directly to the DESIGNATED DIVISION/STAFF PERSON or their designee.

F. Requests for recordings from defense attorneys in county, district, or federal courts must be made through the appropriate prosecutor.

G. The cost for producing the recordings will be determined by the DESIGNATED DIVISION/STAFF PERSON.

H. An automated internal electronic data access log (chain-of-custody) will be generated and kept for every recording produced via body worn camera to document the authenticity of the recording. Members shall be prepared to justify the reason for accessing/viewing recording.

I. The DESIGNATED DIVISION/STAFF PERSON will be responsible for data security and the production of backup copies via SOFTWARE/CLOUD STORAGE/ETC to ensure recordings are not lost prior to the end of the retention period.

10. Complaints Received/Video Review

A. When a complaint is received alleging misconduct involving an officer who is assigned a body worn camera, the following procedures shall be followed:

- ① The officer's immediate supervisor or DESIGNATED DIVISION/STAFF PERSON shall determine if body worn camera recording exists.
- ② The supervisor or DESIGNATED DIVISION/STAFF PERSON shall view the video of the public contact in question and determine if there is any cause for the allegations in the complaint.
- ③ If no cause is determined, the supervisor or DESIGNATED DIVISION/STAFF PERSON shall contact the complainant and advise them a body worn camera recording was made of the contact and that no misconduct was observed.
- ④ The supervisor or DESIGNATED DIVISION/STAFF PERSON shall advise the complaining party that they may make an open records request for a copy of the recording.
- ⑤ The supervisor or DESIGNATED DIVISION/STAFF PERSON shall proceed with their established protocols if misconduct is determined.

B. An officer required to respond to a citizen or administrative complaint shall have the ability to review any body worn camera recording of the subject incident.

C. The Internal Affairs Investigator may, for the purposes of an investigation or complaint, export or copy recordings as needed.

11. Video Retention

Sample: Video Categorization and Retention Periods

Category	Retention Schedule
Admin/Default	180 days
CRASH	180 days
DWI	3,650 days
Felony Offense Report	3,650 days
Incident	180 days
Misdemeanor Offense Report Traffic	730 days

(Subject to Agency Policy- Per Occupations Code 1701.661, retention period may not be less than 90 days)

A. Officers shall include the existence of recordings in the case report for follow up investigation.

B. Any video considered to have evidentiary value, which needs to be retained past the standard retention period, must be identified by DESIGNATED DIVISION/STAFF PERSON.

C. Any video that becomes part of an internal investigation will be placed on hold for indefinite retention until it is no longer needed.

12. Video Uploads

A. When an officer records a call for service and/or incident the officer will review and tag the video with appropriate incident information;

- ① The officer will note at the beginning of the narrative of his report that a recording is available.

B. Prior to the end of shift officers will:

- ① Go to a designated docking station and upload the body worn camera video;
- ② Officers will ensure all recordings are tagged appropriately.

C. Special/Exigent Circumstance Recording Uploading.

- ① Officers involved in collisions and/or otherwise not able to be return to the substation shall adhere to the following:
 - a. The notified supervisor or Patrol Supervisor shall coordinate the retrieval and upload of the body worn camera;
 - b. Upon completion of the video upload the body worn camera must be returned to the officer's supervisor.
- ② Critical Incidents
 - a. Upon the conclusion of a critical incident all officers will return to the appropriate facility in order to have all recordings uploaded. The body worn camera device will not be returned to service until all recordings have been removed and completion confirmation of upload has been received.

D. All video must be uploaded before the officer's next assigned shift. No officer is permitted to take a body worn camera device home while it still contains video on it.

13. Supervisor Responsibilities

A. Supervisors shall ensure officers are using the recording equipment according to established guidelines, policies, and procedures.

- ① Supervisors, on a quarterly basis, will review at least one recording for all officers under their command to ensure proper usage of recording equipment and adherence to established policy and procedures.

- ② Supervisors will take corrective action for any procedural violation they observe and document the findings on the proper form.

B. Supervisors shall record all incidents (i.e. use of force, officer involved accidents, and complaints on officers) when requested or required to respond, in addition to those listed under 5B of this procedure.

C. Supervisors shall view the recordings of all use of force incidents, police vehicle crashes, and police pursuits prior to completing their evaluations.

D. Supervisors may view the recordings of their subordinates in the field at any time during the shift.

E. Minor infractions (non-criminal) discovered during the routine reviews of recorded material should be addressed by the reviewing supervisor, including retraining when appropriate. Disciplinary actions will be addressed in accordance with department policy.

F. Any supervisor made aware of damaged or malfunctioning recording equipment shall arrange for repair of the equipment. Damage shall be inspected by the supervisor and he/she will make every attempt to locate and assign a vehicle with a working in-car video system.

14. Reviewing Body Worn Camera Video

A. The viewing of videos is restricted for official use only. Videos may be viewed for the following purposes:

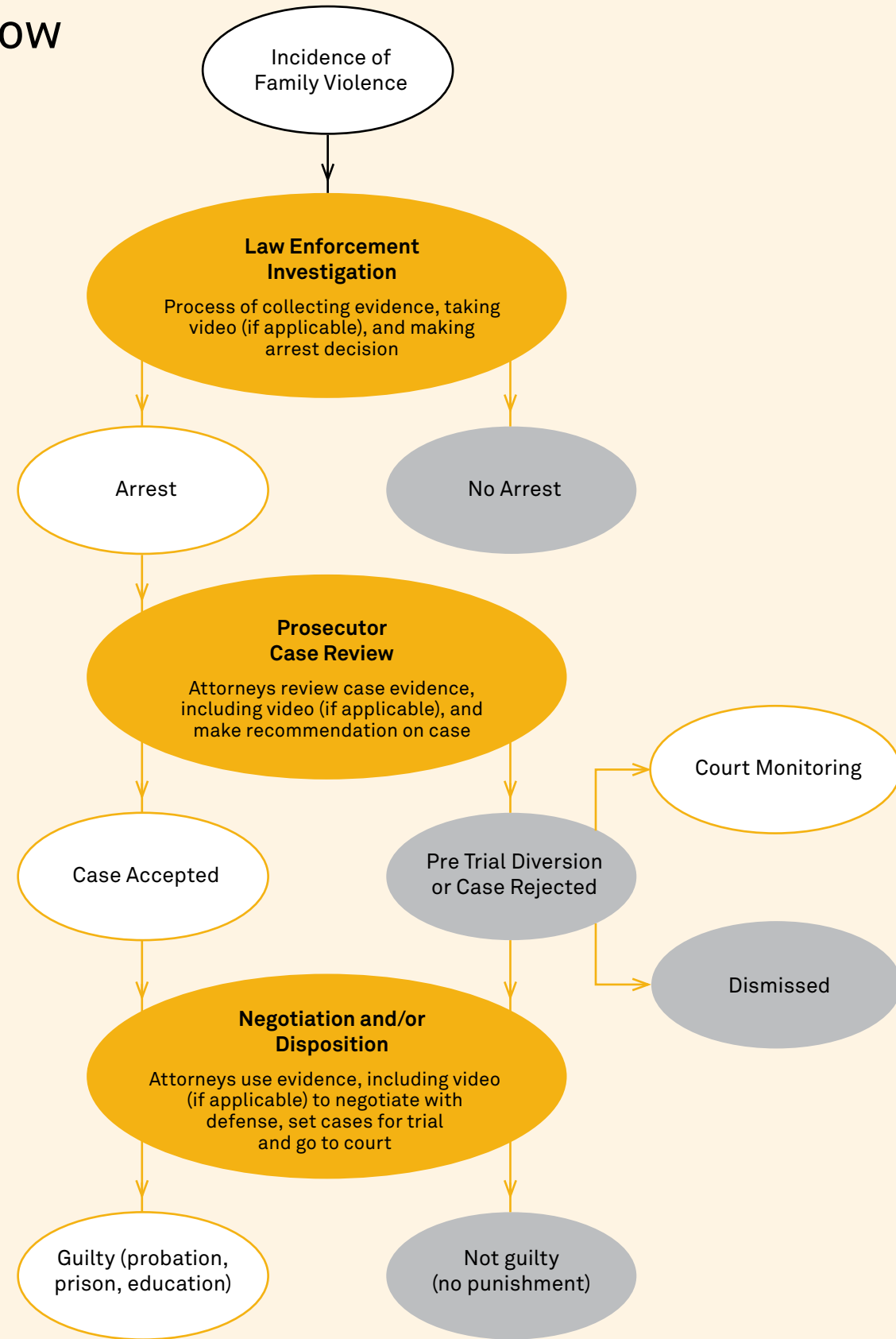
- ① Criminal investigations;
- ② Internal Affairs or complaint reviews in accordance with Section 12, Complaints Received/Video Review;
- ③ Pursuits;
- ④ Use of force reviews;
- ⑤ Open Record Request (ORRs) in accordance with 11, Open Record Requests
- ⑥ Officer involved crashes; or
- ⑦ Other – any purpose not listed in this procedure shall have prior approval by a supervisor and documented.

B. Personnel requiring access to locked videos will send a request for access/viewing of the specific recordings through their chain-of-command.

C. Personnel reviewing recordings shall manually document name, badge number and the purpose of their viewing in the "notes" field in the body worn camera device application.

D. The making of unauthorized copies and/or copies for personal use is prohibited.

Appendix E Case Flow Chart



104

Page intentionally left blank

© 2019

The University of Texas at Austin,
Steve Hicks School of Social Work

Authored by:

Bethany Backes, PhD, MSW, MPH
Anna Wasim, LMSW
Jennifer LaMotte, MSSW, MPAff
Katherine Grau
Leila Wood, PhD, LMSW
Matthew Kammer-Kerwick, PhD

Design by:

In-House International
(weareinhouse.com)



TEXAS

The University of Texas at Austin
Steve Hicks School of Social Work