

**CR416 Adverse inference for law enforcement failure to comply with activation or use of body-worn camera.**

You have heard evidence that [Officer Name] may have;

[failed to activate (his/her) body-worn camera prior to the law enforcement encounter, or as soon as reasonably possible]

[improperly interrupted the body-worn camera recording of the law enforcement encounter]

[deactivated (his/her) body-worn camera before (his/her) direct participation in the law enforcement encounter was complete].

You may infer that, had the encounter been properly recorded, the recording would not have supported the officer's version of events. It is up to you to decide what weight to give this inference and whether it affects your view of the officer's credibility.

**References**

Utah Code sect. 77-7a-104

Utah Code sect. 77-7a-104.1

State v. DeJesus, 2017 UT 22

State v. Alvarado, 2023 UT App 123

**Committee Notes**

Prior to giving this instruction, the court must determine that the defendant has established by a preponderance of the evidence that the officer intentionally or with reckless disregard of the requirements, failed to comply with a requirement of section 77-7a-104 AND the officers' failure to comply with that requirement is reasonably likely to affect the outcome of the defendant's trial.