



Barre City Police Department

Barre, Vermont

Braedon S. Vail
Chief

OPERATIONAL PROCEDURES

<u>Subject:</u>	<u>Number:</u>	<u>Effective Date:</u>
Body Worn Cameras (BWCs)	430	12/7/22

Note: These Rules & Regulations, Operational Policies and/or Procedures are for internal use only and does not enlarge a member’s civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Policy: This policy provides consistent statewide guidance for how and when body cameras will be used by law enforcement. This policy includes each component of the mandatory statewide model policy as adopted by the Vermont Criminal Justice Council.

Purpose: Body Worn Cameras are intended to record police interactions with members of the public. These recordings serve many purposes including enhancing agency transparency, accountability and public trust while documenting emergency responses and crime scenes, collecting evidence and more. This policy provides consistent guidance statewide for how and when body cameras will be used by law enforcement. It also provides consistent guidance on storage, retention, and release of recordings.

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I. Definitions

- A. Body Worn Camera (BWC)** – An electronic device capable of capturing audio and visual recordings worn on a person’s body.
- B. Law enforcement officer or sworn member** – A Vermont law enforcement officer with the authority to conduct searches and make arrests. Referred to as “officer” in this policy.
- C. Lethal force incident** – Whenever an officer uses lethal force (whether the subject is injured or

not); and any incident where an officer takes action that results in death or serious bodily injury to a person.

- D. Recordings** – Refers to files captured by BWCs.
- E. Subject of the video footage** – Any identifiable law enforcement officer or any identifiable suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body camera recording and shall not include people who only incidentally appear on the recording.
- F. Use of force** – Any action beyond verbal commands and compliant handcuffing by a law enforcement officer that is intended to control, restrain, or overcome the resistance of another. This includes any action that results in death, injury, or complaint of injury or pain that persists beyond the use of a physical control hold. Force also includes the use of a weapon (including pointing of a firearm at a person) or empty-handed control and restraint tactics against a member of the public.
- G. Video footage of file** – Any images or audio and metadata recorded by a body camera.

II. Use of BWCs

- A.** BWCs shall be worn in a location and manner consistent with the manufacturer’s recommendations that maximize the camera’s ability to capture video and audio footage of the officer’s activities.
- B.** BWCs shall be worn by all sworn uniformed officers. Non-uniformed sworn officers, i.e., CID personnel may be exempt for specific functions. Non-sworn personnel may be authorized to wear a BWC for specific functions.
- C.** BWCs are not intended to be used surreptitiously. Specifically, officers shall not conceal the presence of a body worn camera, nor shall they attempt to utilize the body camera to record in secret unless authorized by a judicial order.
- D.** Both the video and audio recording functions of the body camera shall be activated in any of the following situations:
 - At the beginning of any investigative or enforcement encounter between an officer and a member of the public, except that when an immediate threat to the officer’s life or safety makes activating the camera impossible or dangerous. The officer shall activate the camera at the first reasonable opportunity to do so.
 - During administration of Miranda warnings and any response when in the field.
 - During all requests made in the field to conduct a search and during the performance of the search, including K-9 searches.
 - At any incident that the officer reasonably anticipates may be confrontational or result in the need to use force.

- E.** Except as authorized in subsections (F & G) of this section, body cameras shall not be deactivated until the encounter has fully concluded and the officer leaves the scene or continued custody of a person has ended.
- F.** Prior to entering a private residence, or premise where there is a reasonable expectation of privacy, without a warrant or in non-exigent circumstances, an officer shall notify the occupant(s) of use of the body camera as soon as practical.
- If an occupant with privacy rights objects to the operation of the body cameras, an officer shall consider the need to continue the encounter. If the officer has no lawful basis to continue the encounter absent consent, the officer shall consider terminating the encounter. If the officer has a lawful basis to continue the encounter or remain present, other than the individual's consent, the officer may continue using the body camera.
 - If entering a private residence pursuant to a search warrant, the officer shall, at the time of applying for the search warrant, consult with the State's Attorney's Office or Attorney General's Office to determine whether a search warrant is needed for use of the body worn camera.
- G.** Permissive agency restrictions on the use of BWCs:
- There are specific situations in which the use of BWCs is not appropriate and officers should not initiate a recording or, if an audiovisual recording has been initiated, the officer may pause or stop the recording prior to the conclusion of the event. Acceptable reasons for discontinuing recording or activating the mute feature include:
 - During on scene conferences between officers, supervisors, advocates, clinicians, EMS personnel, attorneys, prosecutors, or other situations in which the officer determines the conference would violate confidentiality, privacy, or individual rights.
 - Conferences between officers and supervisors that might compromise this or further investigations or would otherwise impede law enforcement efforts or strategy.
 - Encounters with undercover officers or confidential informants.
 - If a person reporting a crime or assisting with an investigation request to remain anonymous.
 - During times of prolonged waiting absent contact with members of the public such as waiting for a tow truck, funeral home, or similar.
 - Recordings are not expected during non-enforcement activities.
 - Recordings are not expected during operations such as routine regulatory functions that are unique to specialized law enforcement agencies.
 - Recordings are not expected during the execution of a search warrant for evidence of child pornography where capturing recordings of such material and uploading them to a third-party vendor's storage would constitute a crime.
 - Recordings are not expected during transports conducted where a cruiser camera is

enabled and captures the individual being recorded.

- Recordings shall not be made to record personal activities such as meal breaks or conversations with other officers, supervisors, or staff outside of the scope of official duties.

H. Prohibitions on Use of BWCs:

- Officers shall, upon request of a victim of domestic or sexual violence, stop recording, provided the scene has been stabilized and made safe following initial response.
- Once a scene has been stabilized and made safe by law enforcement, recording shall stop for victims of domestic or sexual violence during interactions involving matters of safety planning or related to victim privacy.
- Officers shall not activate a body camera while on the grounds of any public, private or parochial elementary or secondary school, nor within a hospital or medical facility except when responding to an imminent threat to life or health or when a use of force is anticipated.
 - This prohibition does not prevent officers from using BWCs as recording devices as part of an investigatory interview in a private setting within a school or medical environment.
- Officers shall not use body cameras to record for the sole purpose of gathering intelligence information on First Amendment protected activities such as speech, associations, or religion.
 - This shall not be construed to limit lawful use of body cameras to record investigative encounters between an officer and a member of the public or activity that raises an articulable suspicion of on-going or imminent criminal conduct.
- Recordings shall not be run through facial recognition or automated analysis programs without appropriate judicial review, except for automated redaction processes which are not for the purpose of identification or comparison to any other source.

I. Recording should resume as soon as any exception no longer exists.

J. If an officer pauses or stops a recording, or uses a mute feature, they shall document the reason for the termination or suspension of the recording.

K. Review of Recordings:

- Except as otherwise prohibited (see below bullet), an officer may review BWC recordings prior to writing reports about incidents or arrests.
- In situations that result in an officer involved shooting, or death or serious bodily injury to a member of the public due to the actions of an officer, the officer shall not review any recordings or be provided an account of any recordings of the incident prior to being interviewed or writing a report, unless doing so is necessary, while in the field, to address an immediate threat to life or safety.

- See Appendix A of **Barre City Police Department's Operational Procedure #401: "Use of Force."** for procedures following a lethal force incident.

III. Equipment and Training

A. Responsibilities of Officers:

- Prior to start of each shift officers are responsible for checking their body camera equipment to be sure it is operational, fully charged, and free of any defects. Officers shall report any malfunctioning equipment to a supervisor, seek a replacement if available, and make a log note or other written notation of the date and time equipment malfunction was discovered.
- During interactions where there is an expectation that the body camera would be activated, an officer should periodically check the body camera to assess that it is functioning properly.
- In the event a body camera either fails to activate and begin recording, or fails to cease recording, the officer will describe this, along with any additional relevant details, in a written report.
- Officers are responsible for uploading their recordings and categorizing each recording appropriately. The tags or categories of files correspond to its retention period; therefore, officers must take extreme care to properly categorize each recording. Intentionally mis-categorizing recordings will result in appropriate disciplinary action.
- Officers shall transfer data from their assigned BWC to the agency's storage as soon as practical, but no less than prior to the end of the officer's tour of duty and/or prior to the capacity of the device being reached.
- Under no circumstances shall an officer erase, edit, alter, duplicate share, or otherwise distribute any recordings on their device except as allowed by this policy. Only a system administrator is authorized to delete or edit files pursuant to section IV of this policy. Only designated staff are authorized to duplicate and distribute copies of recordings pursuant to section IV of this policy.
- While on patrol, officers will keep their BWCs in "BUFFERING MODE." This will allow for the 30 second pre-event recording to occur.
- Should any officer or employee fail to adhere to the recording requirements contained in this policy, intentionally interfere with a body camera's ability to accurately capture video footage, or otherwise manipulate the video footage captured by a body camera during or after its operation, appropriate disciplinary action shall be taken.

B. Responsibilities General

- Personnel assigned BWCs must complete a department 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, proper calibration, and performance, and to incorporate changes, updates, or other revisions in policy and equipment.

- Officers issued BWCs will be trained on:
 - Wear and operation of equipment
 - Charging the BWC/Uploading Data
 - Policy, usage, and data storage procedures
 - How to report and obtain replacement of malfunctioning equipment
- Supervisors may review recordings for the purpose of ensuring compliance with established policies, verifying the equipment is functioning properly, to identify any areas in which additional training or guidance is required, and to identify material that would be appropriate for training.
- All BWCs are equipped with a “buffering” feature and have such feature activated set to record and retain at least the most recent 30 seconds of video prior to activation of the BWC.
- The Chief of Police is responsible to ensure that the provisions of section IV below are followed.
- Personnel shall use only BWCs issued by this Department. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Department.
- The BWC Administrator will hold the rank of Sergeant or above.
- BWC Administrator responsibilities will include:
 - Assign and issue BWCs to Officers
 - Train Department personnel on BWCs and any associated equipment
 - Maintenance of Evidence Transfer Management
 - Requesting RMAs from for inoperable/damaged equipment
 - Coordinate return of inoperable/damaged equipment
 - Maintain inventory by serial number

IV. Storage, Retention and Release

A. Storage

- All videos will be downloaded to the secure data storage system at the end of each shift in which the BWC is used.

B. Retention

- At a minimum, all recordings shall be held in accordance with the State’s record retention act for law enforcement records. [See VT State Archives & Records

Administration's specific record schedule].

- Any recording related to the following will be retained indefinitely and require manual deletion:
 - Officer involved shootings;
 - Major incidents such as mass arrests;
 - Offenses listed under 33 VSA 5204(a);
 - Homicide cases;
 - Active missing person cases
- Should any employee intentionally fail to adhere to the retention requirements contained in this policy, appropriate disciplinary action shall be taken.

C. Release

- When appropriate and not exempt under 1 V.S.A. 317, recordings shall be released, or released with redaction, upon request to members of the public or media.
 - Footage may not be released without the written authorization of the Chief of Police.
- A good faith effort shall be made to locate recordings of interest to the public. If recordings exist of an interaction or event captured by BWCs, and that interaction or event is identified with reasonable specificity, those recordings will be made available for review or release consistent with 1 V.S.A. 317 and any other applicable records release schedule.
- If access to stored footage is authorized by a vendor such as a technician, information technology staff, etc. they shall not be permitted to access, view, copy, alter, or delete footage unless in accordance with this policy and at the express direction of the Chief of Police.
- The Chief of Police may redact any Law Enforcement sensitive information to include, but not limited to criminal history records information, personal biographical information, juvenile's faces/names, undercover officers from any agency, criminal informants, public nudity or other sensitive images or information before being released to the press or public.

D. Whenever an officer equipped with a BWC is involved in, a witness to, or within audio or sight range of a police use of force that results in a death or serious bodily injury, including discharge of a firearm for other than humane destruction of an animal, or when any officer conduct becomes the subject of a criminal investigation:

- Such officer's body camera shall be immediately seized and maintained in accordance with the rules governing the preservation of evidence;
- All files on the seized body camera shall be maintained in accordance with the rules governing the preservation of evidence; and

- The procedure referenced in Appendix A of **Barre City Police Department's Operational Procedure #401: "Use of Force."**

E. Nothing in this policy shall be read to contravene any laws governing the maintenance, production, and destruction of evidence in criminal investigations and prosecutions.

V. Review of BWC Data

Recordings shall be subject to review by the Chief of Police, or a supervisor designated by the Chief of Police or their designees.

A. Random review of video shall be performed as a supervisory function:

- To investigate a complaint against an officer or regarding a specific incident;
- To track performance of an officer still in their probationary period or in Field Training;
- To investigate officers suspected of poor performance or misconduct; and
- To identify videos for training purposes and for general instructional use.

B. Supervisors will periodically review a sampling of BWC recordings of traffic stops and citizen contacts of personnel assigned to their shift to ensure that the equipment is operating properly, that officers are using the devices appropriately and in accordance with policy, and to identify any areas in which additional training or guidance is required.

C. Officers are prohibited from accessing data for personal use.

D. Officers are prohibited from uploading data to public or social websites.

E. Limitations of video recording include the use of reference frames to populate missing cells of video in subsequent frames which can lead to inaccuracies of the video content. Therefore, in certain circumstances forensic video analysis may be warranted.

VI. Cancellation

This directive cancels, replaces and supersedes any directives in conflict therewith.

AUTHORITY:



Braedon S. Vail, Chief of Police

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