

To: House Committee on Government Operations

From: Sheriff William Bohnyak, Chair, Vermont Law Enforcement Advisory Board  
Commissioner Michael Schirling, Vermont Department of Public Safety

Re: Update on status of Body Worn Camera policy development

Date: January 27, 2021

This update outlines the work completed to date and the steps to occur in the weeks to come to finalize the new statewide body worn camera policy.

The starting point for this work was a Body Worn Camera (BWC) policy previously in place – crafted by the Law Enforcement Advisory Board (LEAB). See (<https://vcjc.vermont.gov/content/leab-model-body-worn-camera-policy>).

Preliminary edits were made to that version using the following source and reference documents:

- Relevant Vermont statutes
- A newly crafted VT State Police policy built on the statewide model
- Burlington Police and Seattle, WA Police policies
- CALEA (national accreditation) standards
- Multiple articles, position papers and model statutory language provided by the ACLU of VT

That first draft/revised draft policy was then used as the basis for further engagement and drafting including:

- The draft was posted to the Department of Public Safety’s modernization site in the Fall of 2020.
- Email notifications were sent to over 145 known stakeholders.
- A press release was issued by the Governor’s Office inviting public and stakeholder feedback.
- Feedback/input was received from a variety of citizens, the ACLU, and law enforcement professionals.
- Based on this feedback, a further revised draft of the policy was posted on December 21, 2020.
- On December 21, 2020 the LEAB appointed a four-member subcommittee to consider the December 21<sup>st</sup> draft policy. This subcommittee concluded its work in early January.
- A revised draft of the proposed policy was forwarded to the LEAB for consideration on January 15<sup>th</sup>. The matter was discussed at the LEAB meeting on January 25<sup>th</sup> and the policy was returned to the subcommittee for the following actions:

1. Consideration of feedback that was received after the most recent draft was written;
2. Consideration of a second appendix to the policy that describes the science of the impacts of trauma on memory;
3. Addition of language about redaction of recordings;
4. Ensuring that every component of existing legislation has been addressed.

Future work and steps include but are not limited to:

- When the sub-committee completes their work, a new draft will be sent to the full LEAB to adopt or request further changes.
- Once the LEAB approves the policy, pursuant to Act 165, it becomes the de facto statewide model. Following that, the Chair of the LEAB will forward the new model to the Vermont Criminal Justice Council (VCJC) for their consideration and any further action (to occur prior to 1/1/2022).

**Highlights of current draft changes from existing model policy include:**

1. Definitions of key terms have been added.
2. Many of the ACLU's recommendations have been incorporated.
3. A prohibition on the use of facial recognition technology without a warrant has been added, except for the purposes of facilitating automated redaction of recordings.
4. Detail has been added regarding when BWCs must be used.
5. Detail has been added regarding when BWCs use is prohibited.
6. More detail on the proper use of BWCs, clearly identifying responsibilities of individual officers and the agency has been added.
7. Additional detail on storage of recordings, retention schedules and release of recordings has been added.
8. Addition of Appendix A: this represents an enormous amount of collaboration between the law enforcement community and other stakeholders. Appendix A details a statewide, consistent procedure for what happens when an officer takes action that results in serious bodily injury or death to a person. It outlines the investigative processes that will take place and clearly describes the use of BWC recordings in the wake of a lethal force incident. This appendix is applicable to the BWC statewide policy and to the statewide Use of Force policy still under construction. This appendix is a crucial step toward statewide consistency and transparency.