

<b>Body Worn Camera Policy</b>	<b>Related Policies:</b> This policy supersedes all previous policies
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Vermont Statutes: 1 VSA 317	
Date Implemented: TBD	By Order of: Matthew Romei, Chief of Police Adopted by JLMC:

**Purpose:** The purpose of this policy is to direct officers and supervisors of the Capitol Police Department in the proper use and maintenance of **Body Worn Cameras (BWC)** as well as directing how video will be utilized as a quality control mechanism and evidence

**Policy:** The policy of the Vermont Capitol Police Department is to provide officers with body worn cameras to collect evidence to be used in the prosecution of those who violate the law, for officer evaluation and training, and to provide accurate documentation of police and citizen interaction. The use of a BWC system provides persuasive documentary evidence and helps defend against civil litigation and allegations of officer misconduct. Officers assigned the use of these devices shall adhere to the operational objectives and protocols outlined herein to maximize the effectiveness and utility of the BWC and the integrity of evidence and related video documentation.

**Objectives:**

1. To enhance Officer safety.
2. To document statements and events as they are occurring.
3. To document crime or incident scenes.
4. To enhance an Officer's ability to document and review statements and actions for reporting and criminal prosecution.
5. To preserve visual and audio information for use in current and future investigations.
6. To serve as a tool for officer training.
7. To enhance public trust.

**Procedures for BWC Use**

1. BWC equipment is issued primarily to uniformed personnel as authorized by this agency. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.

2. Police 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 agency.
3. Police personnel who are assigned BWCs must complete an agency approved and/or provided training program to ensure proper use and operations. 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.
4. BWC equipment is the responsibility of individual officers and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured.
5. Officers shall inspect and test the BWC in accordance with venter supplied protocol prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems.
6. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the Chief of Police or his or her designee.
7. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
8. If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from viewing the video file.
9. Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Chief of police or his or her designee in accordance with legislative record retention laws and policies. All requests and final decisions shall be kept on file.
10. Officers shall note in incident, arrest, and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.

### **Permitted and Prohibited Use**

1. Officers shall activate the BWC to record with audio and video during the following incidents:
  - a. All calls for law enforcement service in which citizen contact is made.
  - b. All traffic stops.
  - c. All citizen transports (excluding ride-alongs).
  - d. All investigatory stops.
  - e. All foot pursuits.
  - f. When arriving at law enforcement events and/or citizen contacts initiated by other Officers.
  - g. Other incidents the officer reasonably believes should be recorded for law enforcement purposes, i.e., any contact with the public that becomes adversarial after initial contact.
2. The recording shall include, but are not limited to:
  - a. Arrests of any persons.
  - b. Searches of any kind.
  - c. Seizure of any evidence.
  - d. Requests for consent to search.
  - e. Miranda warnings and response from in custody suspect.
  - f. Statements made by citizens and defendants.
  - g. K-9 searches of vehicles.
  - h. Issuance of written violations.

3. The recording shall continue until the law enforcement event or citizen contact is completed and the citizen involved departs or until the officer, who is recording the event through a BWC discontinues his or her participation in the law enforcement event or citizen contact by leaving the scene.
4. Officers shall avoid using the BWC to record individuals who are picketing or engaging in a protest or during First Amendment demonstrations unless an obvious violation of criminal or municipal law is occurring or if the Officer is in the same vicinity for other legitimate law enforcement purposes; or as directed by the Chief of Police or their designee under circumstances where disorder or criminal conduct is anticipated.
5. A recording may be stopped in cases of a sensitive nature such as domestic assault or sexual assault, once the offender has been removed from the scene and the body camera user has recorded an initial account from the victim and recorded the scene of the alleged offence. In these circumstances the user should consider whether continuing to record through statement-taking or other administrative processes is appropriate or necessary.
6. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, a law enforcement officer shall, as soon as practicable, ask the person seeking to remain anonymous, if the person seeking to remain anonymous wants the officer to discontinue use of the officer's body camera. If the person seeking to remain anonymous responds affirmatively, the law enforcement officer shall immediately discontinue use of the body camera.
7. Officers should, when reasonable and when circumstances allow, obtain consent prior to recording interviews with crime victims.
8. In all instances where the officer deliberately stops recording, the officer will make verbal notification, on the record, of the date and time the recording is being stopped and the reason why.
9. Officers will not be permitted to use privately-owned body worn cameras while on duty.

### **Officer Responsibility**

1. Officers will make every reasonable effort to ensure that the BWC recording equipment is accurately capturing events. A reasonable effort includes:
  - a. Activating the video/audio recording as soon as the officer makes citizen contact, or the law enforcement event begins
  - b. Activating the video/audio when the officer arrives at a street encounter, or citizen contact initiated by another officer
  - c. Positioning and adjusting the BWC to record the event
2. Officers should record all contacts in their entirety unless the officer enters an agency location where another recording device is available to continue recording the contact (ex.: DUI Processing Room, Interview Room), or a citizen in their residence asks not to be recorded.
3. Officers shall not erase, alter, modify or tamper with BWC recordings.
4. A malfunctioning BWC will be replaced as soon as reasonably possible. If a replacement BWC is immediately available, it will be issued and checked to ensure that it's operating properly, per this policy, before the officer resumes his/her duties.

## **Recordings Storage and Documentation**

1. When BWC video is recorded officers must add the video file(s) to a minimum of one of the following established categories to maintain for proper retention periods. The Chief of Police, in conjunction with the Sergeant at Arms, and with the advice of the Office of Legislative Counsel may update these retention periods to meet best practice standards, without requiring a full review of the policy.

### Category Type/Retention Period

a. Calls for Service / Non-event	90 Days
b. Traffic Stops	3 years
c. Arrest/Incapacitated Persons Lodged	7years
d. Investigations	1 year
e. DUI related incidents	7years
f. Use of force incidents	Indefinite/manual deletion
g. Major Incidents	Indefinite/manual deletion

2. In a case where an event is recorded which involves an arrest or any seizure of evidence or property, the arresting officer shall indicate that the event has been recorded, in a format approved by the agency.
3. BWC recordings containing information that may be of value for case prosecution or in any criminal or civil proceeding shall be handled as other forms of evidence and a proper chain of custody will always be maintained.
4. These recordings will be subject to the same restrictions and chain of evidence safeguards as detailed in the agency evidence control procedures.
5. All BWC recordings are the property of this agency. Dissemination outside the agency is strictly prohibited without specific authorization of the Chief of Police or Sergeant at Arms.
6. To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the Chief of police or designee.
7. Malicious destruction or deletion of BWC recordings is prohibited.
8. All BWC recordings are subject to open records request as allowed by Vermont law.
  - a. Recordings that are the subject of a denied open records request must be maintained until the dispute between the department and the person or entity requesting the recordings is resolved.
9. If a recording is used by the department for training purposes, the recording shall be maintained as a training record for five years. In no circumstances should a domestic violence or sexual assault video be used in training without the express written consent of the victim, if the victim can be identified in the video.
10. If a recording is used in a disciplinary action against an employee, then the recording shall be held for a minimum of three years from the completion of the disciplinary action.
11. Recordings shall be subject to review by the Chief of Police or a supervisor designated by the Chief of Police or their designees.
12. If a complaint is lodged against an employee, the employee's supervisor may review the recording. If upon review, the supervisor finds that corrective action is necessary regarding an officer's conduct, the supervisor will follow the agency's disciplinary policy.

## **Exemptions from Disclosure Under the Public Records Act**

1 VSA 317 (c) and all subsections under (c) specify those records that are exempt from public viewing and copying.