


ESSEX POLICE DEPARTMENT
Operational Directive



	Number: 2.7.8
Body Worn Cameras (BWC)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Amends <input type="checkbox"/> Rescinds
Authorized Signature: _____	 Chief of Police
<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>	
Date Implemented: 04/14/2021	Review Date: 01/01/2022

1. PURPOSE:

The purpose of this policy is to direct members of the Essex 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.

2. POLICY:

The policy of the Essex Police Department is to provide officers with body worn cameras in an effort 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 so as to maximize the effectiveness and utility of the BWC and the integrity of evidence and related video documentation.

3. DEFINITIONS

- 3.1. Body Worn Camera (BWC): An electronic device capable of capturing audio and visual recordings worn on a person's body.
- 3.2. 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.

- 3.3. 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.
- 3.4. Recordings: Refers to files captured by BWCs.
- 3.5. 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.
- 3.6. 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.
- 3.7. Video footage or file: any images or audio and metadata recorded by a body camera.

4. OBJECTIVES

- 4.1. To enhance Officer safety.
- 4.2. To document statements and events as they are occurring.
- 4.3. To document crime or incident scenes.
- 4.4. To enhance an Officer's ability to document and review statements and actions for reporting and criminal prosecution. including major use of force incidents
- 4.5. To preserve visual and audio information for use in current and future investigations
- 4.6. To serve as a tool for officer training.
- 4.7. To enhance public trust through transparency.

5. PROCEDURE

- 5.1. Only sworn officers shall be permitted to wear a BWC.* 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. BWCs are not intended to be used surreptitiously. Specifically, officers should not conceal the presence of a body worn camera, nor shall they attempt to utilize the body camera to record in secret unless so authorized by a judicial order.
* *Non-sworn employees hired specifically to perform ancillary law enforcement functions may be authorized to wear BWCs.
- 5.2. BWC equipment is issued primarily to uniformed personnel as authorized by the Essex Police Department. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.

- 5.3. 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 Essex Police Department.
- 5.4. Police personnel who are assigned BWCs 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, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
- 5.5. 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.
- 5.6. Officers shall inspect and test the BWC prior to each shift to verify proper functioning and shall notify their supervisor of any problems.
- 5.7. 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.
- 5.8. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
- 5.9. If an officer is suspected of wrongdoing, the department reserves the right to limit or restrict an officer from viewing the recordings.
- 5.10. In cases where Officers are 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 recordings.
- 5.11. 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 Executive Officer or his or her designee in accordance with state record retention laws. The Chief of Police must approve all requests for deletion. All requests and final decisions should be kept on file.
- 5.12. 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.

6. PERMITTED AND PROHIBITED USE

- 6.1. Officers shall activate the BWC to record with audio and video the following incidents:
 - 6.1.1. All calls for service with a citizen.
 - 6.1.2. All traffic stops.

- 6.1.3. All citizen transports (excluding ride-along).
 - 6.1.4. All investigatory stops.
 - 6.1.5. All foot pursuits.
 - 6.1.6. When arriving at law enforcement events and/or citizen contacts initiated by other Officers.
 - 6.1.7. 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.
- 6.2. The recording shall include, but are not limited to:
- 6.2.1. Arrests of any persons.
 - 6.2.2. Searches of any kind.
 - 6.2.3. Seizure of any evidence.
 - 6.2.4. Requests for consent to search.
 - 6.2.5. Miranda warnings and response from in custody suspect.
 - 6.2.6. Statements made by citizens and defendants.
 - 6.2.7. K-9 searches of vehicles.
 - 6.2.8. Issuance of written violations.
 - 6.2.9. Persons behaving in an erratic manner.
 - 6.2.10. Documentation of an injury.
 - 6.2.11. Self-initiated activity in which an officer would normally notify dispatch.
- 6.3. 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.
- 6.4. 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.
- 6.5. 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 offense. In these circumstances the user should consider whether continuing to record through statement-taking or other administrative processes is appropriate or necessary.
- 6.6. 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.

- 6.7. Officers should, when reasonable and when circumstances allow, obtain consent prior to recording interviews with crime victims.
- 6.8. In a residence, there is a heightened degree and expectation of privacy. If the resident wishes not to be recorded, this request will be documented by recording the request before the BWC is turned off. However, if an officer enters a dwelling without the consent of the resident, such as when serving a warrant, or when the officer is there based on an exception to the warrant requirement, recordings should be made of the incident until its conclusion.
- 6.9. Unless the encounter occurs in a location where there is an expectation of privacy, an officer does not have an obligation to cease a body camera recording when interacting with an individual suspected of involvement in unlawful conduct, even if the individual requests the recording to be stopped.
- 6.10. 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.
- 6.11. Discontinuing or Not Starting a Recording:
 - 6.11.1. There are occasions where an officer should not initiate a recording; or, if an audiovisual recording has been initiated, the officer may determine it necessary to pause or stop the recording prior to the conclusion of the event. If the officer pauses or stops a recording, he/she shall document the reason for the termination or suspension of the recording. Acceptable reasons for discontinuing recording or activating the mute feature include:
 - 6.11.1.1. During on scene conferences between officers, supervisors, advocates, clinicians, EMS personnel, attorneys, etc. where the officer determines the conference would violate confidentiality, privacy or individual rights.
 - 6.11.1.2. Conferences between officers and supervisors that might compromise this or further investigations or would otherwise impede law enforcement efforts or strategy.
 - 6.11.1.3. Encounters with undercover officers or confidential informants.
 - 6.11.1.4. If a person reporting a crime or assisting with an investigation requests to remain anonymous, the recording may be stopped.
 - 6.11.1.5. During times of prolonged waiting absent citizen contact such as waiting for a tow truck, funeral home or similar.
 - 6.11.1.6. Officers are expected to be respectful of individual's dignity and use sound judgments as to when and how the device will be used. Officers will try to avoid recording persons who are nude or have genitalia exposed, and officers will refrain from activating recordings in places where a reasonable expectation of

privacy exists such as locker rooms, dressing rooms, rest rooms and similar unless such recording is necessary for a legitimate law enforcement purpose.

- 6.11.1.7. 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 ongoing field activities.
- 6.11.1.8. Recordings are not expected during innocuous activities such as taking telephone complaints, foot patrols, security assignments, providing directions, non-enforcement roadside assistance, humane destruction of a wounded animal, traffic control, providing unlocks and similar.
- 6.11.1.9. See sections 6.4 through 6.8 above regarding recording inside residences or other places where citizens have a reasonable expectation of privacy. Recording should resume as soon as one of the above reasons no longer exists

7. OFFICER RESPONSIBILITIES

- 7.1. Officers will make every reasonable effort to ensure that the BWC recording equipment is accurately capturing events. A reasonable effort includes:
 - 7.1.1. Activating the video/audio recording as soon as the officer makes citizen contact, or the law enforcement event begins. At the beginning of any other 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.
 - 7.1.2. Activating the video/audio when the officer arrives at a street encounter, or citizen contact initiated by another officer.
 - 7.1.3. Positioning and adjusting the BWC to record the event.
 - 7.1.4. 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.
 - 7.1.5. Officers shall not erase, alter, modify or tamper with BWC recordings.
 - 7.1.6. 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 its operating properly, per this policy, before the officer resumes his/her duties.
 - 7.1.7. If an officer fails to activate the BWC, the officer will document why a recording was not made. Documentation can be in the form of an incident report, arrest report, or other electronic means approved by the Chief of Police.

- 7.1.8. Officers are responsible for “tagging” 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 “mistagging” recordings will result in appropriate disciplinary action.
- 7.1.9. Officers shall transfer data from their assigned BWC to the agency’s storage as soon as practical, but no less than prior to use by another officer and/or prior to the capacity of the device being reached.

8. SUPERVISORY RESPONSIBILITIES

- 8.1. Supervisory personnel are responsible and have discretion for the assignment of BWCs based upon the availability of the equipment and the needs of the agency.
 - 8.1.1. Priority of assignment is to the Patrol Division personnel, including Traffic Safety Unit, first, based upon equipment availability, except when Tactical Team or other components have high risk operations where the need for Body Worn Cameras (BWCs) are of greater priority.
- 8.2. Supervisory personnel will ensure that officers equipped with BWC devices utilize them in accordance with policy and procedures defined herein.
- 8.3. Supervisors will at least every 60 days review a sampling of BWC recordings of traffic stops and citizen contacts to ensure that the equipment is operating properly, that officers are using the devices appropriately and in accordance with policy, to ensure compliance with department policies, and to identify any areas in which additional training or guidance is required. Recording that are reviewed under this section should be noted in the recording event notes section.

9. REVIEW OF RECORDINGS

- 9.1. Under normal circumstances, an officer may review BWC recordings prior to writing reports about incidents or arrests.
- 9.2. 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.

10. STORAGE AND DOCUMENTATION

- 10.1. 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 for this agency]. When appropriate and not exempt under 1 VSA 317, recordings shall be released, or released with redaction, upon request to members of the public or media.

- 10.2. The department shall make a good faith effort to locate recordings of interest to the public. If recordings exist of an interaction or event captured by a BWC and that interaction or event is identified with reasonable specificity, the agency will make that recording(s) available for review or release consistent with 1 VSA 317 and any other applicable records release schedule.
- 10.3. An agency may delete BWC recordings only if it has a record retention schedule approved by the State Archivist or the deletion is already authorized by law.
- 10.4. 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.
- 10.5. 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 be maintained according to Vermont Law. These recordings will be subject to the same restrictions and chain of evidence safeguards as detailed in the agency evidence control procedures.
- 10.6. All BWC recordings are the property of the Essex Police Department. Dissemination outside the Essex Police is strictly prohibited without specific written or electronic authorization from the Chief of Police or designee.
- 10.7. 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.
- 10.8. Malicious destruction or deletion of BWC recordings is prohibited.
- 10.9. All BWC recordings are subject to open records request as allowed by Vermont law. 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.
- 10.10. 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.
- 10.11. 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, or a length of time designated in bargaining contract.
- 10.12. Recordings shall be subject to review by the Chief of Police or a supervisor designated by the Chief of Police or their designees.
- 10.13. In the event that 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.

11. ADDITIONAL RETENTION GUIDELINES

- 11.1. The following retention guidelines are in addition to the requirements of the specific record schedule for this agency. When a BWC fails to capture some or all of the audio or video of an incident due to malfunction, displacement of camera, or any other cause, any audio or video footage that is captured shall be treated the same as any other recording as described in this policy.
 - 11.1.1. 14 (fourteen) days - In instances where a body camera is activated mistakenly and records no discernable human activity, such footage may be permanently deleted after 14 days by the law enforcement agency. The time, date, length of recording, assigned body camera designator, and a brief summary of the image depicted shall be documented in some fashion by the law enforcement agency prior to permanent deletion.
 - 11.1.2. 90 (ninety) days - Recordings shall be retained for no less than ninety days if the recording captures an interaction or event involving:
 - 11.1.2.1. Response to calls for service where no enforcement action occurs;
 - 11.1.2.2. Traffic stops with no enforcement action taken beyond a written warning;
 - 11.1.2.3. Traffic stops with enforcement action taken shall be kept until the civil case is closed;
 - 11.1.2.4. Police-citizen interactions that do not involve enforcement action, a search or seizure;
 - 11.1.3. 3 (three) years - Recordings shall be retained for no less than three (3) years if the recording captures an interaction or event involving:
 - 11.1.3.1. Any use of force;
 - 11.1.3.2. A recording related to any incident in which a member of the public has made a complaint against an agency employee;
 - 11.1.3.3. Recording(s) used in disciplinary action against an employee shall be held for a minimum of three years from the completion of the disciplinary action;
 - 11.1.3.4. Recordings shall also be retained for no less than three (3) years if a longer than normal retention period is voluntarily requested by the officer whose body camera recorded the video footage or his/her supervisor, or any officer who is a subject of the recording, if the officer or supervisor reasonably asserts the video footage has evidentiary or exculpatory value; recordings shall be retained for no less than three years upon written

request from a member of the public who is a subject of the recording, the next of kin of a subject who is deceased, or the parent/guardian of a juvenile who is a subject.

- 11.1.4. 7 (seven) years – Recordings shall be retained for no less than seven (7) years if the recording captures an interaction or event involving:
 - 11.1.4.1. Recordings related to misdemeanor arrests or non-violent felony arrests (or longer if the case is not resolved in this time frame);
 - 11.1.4.2. Recordings related to the following will be retained indefinitely and require manual deletion:
 - 11.1.4.2.1. Use of force incidents resulting in injury or allegation of injury;
 - 11.1.4.2.2. Officer involved shootings;
 - 11.1.4.2.3. Major incidents such as mass arrests;
 - 11.1.4.2.4. Serious felony offenses;
 - 11.1.4.2.5. Homicide cases;
 - 11.1.4.2.6. Active missing person cases.
 - 11.1.4.3. 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:
 - 11.1.4.3.1. Such officer's body camera shall be immediately seized by the officer's agency or department, or the agency or department conducting the related criminal investigation, and maintained in accordance with the rules governing the preservation of evidence;
 - 11.1.4.3.2. All files on the seized body camera shall be maintained in accordance with the rules governing the preservation of evidence;
 - 11.1.4.4. BWC footage may only be offered as evidence by any government entity, agency, department or prosecutorial office, in accordance with established rules of evidence.
 - 11.1.4.5. This policy is publicly available on this agency's website or by contacting the agency.
 - 11.1.4.6. Nothing in this chapter shall be read to contravene any laws governing the maintenance, production, and destruction of evidence in criminal investigations and prosecutions.