

BODY-WORN CAMERA POLICY

Village of Cooperstown

Draft July 2022

I Purpose

The purpose of this policy is to establish guidelines and limitations for the use and management of body worn audio/video camera systems by officers employed by the Village of Cooperstown Police Department (CPD).

The use of a body worn audio/visual camera system will accomplish several objectives to include:

- Building community trust through increased accountability and transparency,
- Enhancing officer safety,
- Preserving visual and audio representations of officer-citizen contacts,
- Documenting statements and events,
- Providing an impartial measurement for self-critique and evaluation for training purposes,
- Affording the officer the ability to review actions for courtroom preparation/presentation,
- Preserving visual and audio information for use in investigations, and
- Proving evidence for court and administrative proceedings.

This policy will be reviewed annually in accordance with New York State Department of Criminal Justice Accreditation Standards.

II Policy

The CPD shall utilize body-worn audio/visual camera system to videotape and audio-record incidents involving law enforcement related activity.

All recordings are the property of the Village of Cooperstown and shall not be copied, released, or disseminated in any form or manner outside the parameters of this policy. Unauthorized use, duplication and/or distribution of the recordings and files are prohibited.

III Definitions

“Body-Worn Cameras” (BWC) - small video cameras, typically attached to an officer’s clothing, helmet, or sunglasses that maximizes the camera’s ability to capture video and audio data of the officer’s law enforcement related activities.

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“Agency Administrator” – The Village of Cooperstown Police Chief or their designee has full access to and user rights within the data storage system. They can assign and track equipment, control passwords, oversee needed repairs, delete non-evidentiary recordings, conduct audits and quality control reviews, and act as a liaison with BWC representatives.

“Enforcement Related Activity” – Situations during an officer’s official duties that include, but are not limited to:

1. Calls for service;
2. Pedestrian and vehicular detentions and stops;
3. Observed unlawful conduct;
4. Use of force;
5. Search warrants;
6. Motor vehicle searches;
7. Arrests;
8. Advising of Miranda rights;
9. Investigatory activities;
10. Statements made by suspects, victims, and witnesses; and
11. Confrontational/adversarial citizen contacts.

IV Devices

- A. Body-worn cameras (BWCs) shall be worn by uniformed officers in a manner that maximizes the camera’s ability to capture video footage of the officer’s activities.
- B. Police personnel shall only use BWCs issued or approved by the agency.
- C. Officers are prohibited from using a personally owned video recording device such as a camera phone or a secondary video camera to record any video footage unless authorized by the shift supervisor.

V Training

- A. All agency personnel who will use or otherwise be involved with BWCs shall receive training to include, but not limited to:
 1. Activation,
 2. Deactivation,
 3. Upload procedures,
 4. Proper maintenance, and
 5. Agency policy and procedures on covered practices of a BWC.

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VI Recording

A. When to activate the body-worn camera:

1. In keeping with the department's value of respecting the dignity of all persons, officers will use sound judgement in when and how BWCs are used.
2. Officers should activate their BWC audio and video functions upon engaging in an enforcement related activity that occurs while the officer is on duty, unless:
 - a. There is an immediate threat to the officer's safety;
 - b. Turning on the body worn camera would be impracticable and place the officer in a tactical disadvantage,
 - c. Activating the BWC could delay an officer's response to the safety needs of a citizen during a critical incident,
 - d. During the course of activation the BWC malfunctions,
 - e. When an individual's right to privacy outweighs the law enforcement interest. Such situations may include, but are not limited to:
 - i. Conversations with confidential informants and undercover officers,
 - ii. Conversations with law enforcement personnel that involve case tactics or strategy,
 - iii. Places such as, but not limited to, locker rooms and restrooms where there is a reasonable expectation of privacy,
 - iv. When people are nude or when sensitive human areas are exposed unless considerations are outweighed by a legitimate law enforcement interest,
 - v. A potential witness who requests to speak to an officer confidentially or desires anonymity,
 - vi. A victim or witness who requests that they not be recorded and the situation is not confrontational,
 - vii. A victim who requests that they not be recorded as a condition of

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cooperation and the interests of justice require such cooperation,

- viii. When explosive devices are present, radio waves of the BWC could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present,
- ix. Non-work related personal activity,
- x. Conversations with fellow employees without their knowledge during routine, non-law enforcement related activities, or
- xi. Medical settings in which an individual is receiving medical treatment or diagnosis is being discussed. Exceptions would be crime or auto accident scenes or in the case of a disturbance or crime occurring in a hospital or similar setting.

- 3. While it is generally implied that words or actions performed in the presence of a police officer have no expectation of privacy, when practicable and safe, an officer shall verbally announce that a BWC is being used.
- 4. Officers should document in all reports the presence of video captured by a BWC during the course of any enforcement related activity.

B. Deactivation of recording

- 1. Officers shall have the discretion to terminate the recording when the enforcement related activity has concluded.
- 2. If a BWC has been activated and during the course of an enforcement related activity the legitimate law enforcement interest for recording no longer outweighs an individual's privacy, the officer shall document on camera and record the reason for deactivating.

C. Recording Statements

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1. Proper documentation shall be made anytime the BWC captures a video statement from a suspect. The video statement shall not take the place of a written statement. Documentation will include:
 - a. All required agency reports; and
 - b. CPL 710.30 form, when necessary.
 2. Failure to notify the prosecutor of the recorded interview could prevent its use in court.
- D. Failure to record when legitimate law enforcement interest is present
1. If an officer fails to activate, chooses to terminate the BWC recording, or the BWC malfunctions, the officer will articulate in written report:
 - a. Why a recording was not made;
 - b. Why a recording was interrupted; and/or
 - c. Why a recording was terminated.
 2. The shift supervisor will review all necessary documentation of an officer's failure to record an incident.

VII Storage & Retention

A. Downloading procedures

1. When practicable, data shall be downloaded in accordance with current procedure for storing digital files. Downloads should occur at the end of the officer's shift, or any time the BWC storage capacity is nearing its limit.
2. The Cooperstown Police Department, in coordination with the district attorney's office, shall establish a system to classify data based upon the type of event or incident captured in the recording.
3. All BWC data relating to a criminal incident should be considered digital evidence and processed in accordance with departmental policy.
4. Each data file will include searchable information including, but not limited to: date and time the video was captured; incident number if applicable; and BWC identifier of assigned officer.

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5. Any time an officer reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a confrontational citizen contact), the officer should promptly notify a shift supervisor of the existence of the recording.

B. Measures to prevent data tampering

1. All video, audio, and data captured by the BWC, irrespective of the content, are at all times the property of the Village of Cooperstown. Officers may not copy, publish, share or disseminate any audio, video, image, or data to anyone except as authorized. Furthermore, officers may not edit, delete, or alter any video or audio captured by the BWC.
2. An audit system that monitors who accesses recorded data, when and for what purpose shall be instituted.
3. The third-party authorized to act as the CPD's agent in maintaining body camera footage shall not be permitted to independently access, delete, view, or alter any video footage without the express written consent of the agency administrator.

C. Retention schedule:

1. Agencies retention schedules shall be in compliance with the minimum standards required by the New York State Archives. This shall include the minimum retention dates as follows:
2. Evidentiary data shall be retained for a minimum of 6 months.
 - a. If a determination is made that video data has evidentiary value in an on-going investigation, court proceeding or appeals process, the data shall be retained through the pendency of the case.
 - b. The established retention schedule can be extended beyond the 6 month minimum as necessary.
3. Non-evidentiary data shall be retained for a minimum of 6 months.
 - a. Any BWC data determined to have value in long term investigative, administrative, or civil proceedings should be appraised for archiving in accordance with applicable statutory timeframes.

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- b. If no extension of video data retention is required, the recordings may be destroyed in accordance with the CPD's retention procedures and with approval from the agency administrator.
4. If recording is deemed to be useful as a training tool, the recording may be kept for as long as practicable.

VIII. Access

A. Permitted review of footage

1. Officers will be permitted to review video footage and audio recording of an incident in which they were involved for purposes of:
 - a. Conducting a criminal investigation,
 - b. Preparing for courtroom testimony or courtroom presentation,
 - c. Providing testimony pursuant to an administrative inquiry, and
 - d. Assisting the officer in professional development.
2. In addition to the permitted access listed in Section 1, the agency administrator may also review recordings as they pertain to:
 - a. Investigating alleged misconduct reports or meritorious conduct,
 - b. Whenever such recordings would be beneficial in reviewing an officer's performance; and
 - c. Recordings that are of value as training tools.
3. Prosecutors will be permitted to review video footage as it pertains to their investigations.
4. Public disclosure of data
 - a. Any and all disclosure of BWC data must be consistent with CPD's record release policy and applicable statutes regarding, but not limited to, evidence discovery and disclosure pursuant to the Freedom of Information Law (FOIL). Any requests for such data should be reviewed by the Village's legal advisor.
 - b. When BWC data is disseminated outside of the

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agency, the reason and identity of the authorized requesting person or agency and the rationale used for determining why or why not data is released shall be documented.

- c. Civilians shall not be allowed to review the recordings at any scene.

- B. Unauthorized access or release of data is prohibited outside the permitted review of footage detailed in Section A.

IX. Maintenance

- A. Inspection of the equipment at start of shift

1. Officers shall inspect and test the BWC prior to each shift in order to verify proper functioning and shall notify their shift supervisor of any problems.
2. Officers shall ensure the unit is properly charged before going into service.

- B. Device log and notification procedures

1. Documentation shall be maintained by the CPD to identify which BWC is assigned to each officer per shift.
2. Necessary documentation and supervisory notification shall be made if at any time during an officer's shift a functioning BWC is not available for use.

- C. Equipment malfunction procedures

1. When equipment is inoperable, it should be exchanged for operable equipment at the earliest opportunity.
2. Officer will leave written notification for the agency administrator at the end of their shift of any equipment malfunctions.

- D. Agency administrator duties:

1. The agency administrator has responsibilities that include, but are not limited to:
 - a. Ensuring proper procedures are followed in the downloading, review, release, and retention of

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- BWC data,
- b. Conducting periodic reviews of retained video data to ensure it has not been tampered with,
 - c. Coordinating with IT regarding system related issues;
 - d. Coordinating maintenance and repairs for the BWC,
 - e. Conducting annual review of the policy and procedures contained herein and for making recommendations for any necessary amendments thereto, and
 - f. Coordinating review of videos scheduled for destruction.

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