

# CAPE VINCENT POLICE DEPARTMENT

## POLICY AND PROCEDURES

<b>SUBJECT:</b>  ACTIVITIES  Body Worn Cameras	<b>POLICY NUMBER:</b> CV-40-23-01-01 <b>SUPERSEDES:</b> All Previous <b>AMENDED:</b> <b>EFFECTIVE DATE:</b>  Page 1 of 10 Pages
<b>AUTHORITY OF:</b>	Shaun Cuddeback, Officer In Charge <i>023101</i> Date: <i>02/14/2023</i>
<b>REFERENCE:</b>	

**POLICY:** Consistent with our values to protect and serve in a professional manner, it will be the policy of the Cape Vincent Police Department to utilize Body Worn Cameras to effectively document member interactions with the public.

**PURPOSE:** To establish written guidelines for daily use of Body Worn Cameras (BWC or BWCs) and the resulting recordings, in accordance with applicable laws and procedures and retention of video evidence in vehicle and traffic, criminal and potential civil cases.

### PROCEDURES:

#### I. Definitions:

- A. Body Worn Cameras (BWC or BWCs) – Any video cameras issued by the Cape Vincent Police Department and adhered to a member’s uniform in a manner that maximizes the camera’s ability to capture video and audio data.
  - 1. BWC does not include any form of electronic recording device worn by a member while acting in an undercover capacity.
- B. BWC Recordings – Audio, video, images, data, and metadata that is recorded and then uploaded to a cloud-based digital evidence management system.
- C. Cloud-Based Storage System – Digital evidence management system used to manage, review, and share digital evidence.

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- D. Deactivation – Switching the BWC device from *Event Mode* to *Pre-Event Buffering Mode*.
  - E. Docking Station – A docking, charging, and data uploading mechanism for the BWC.
  - F. Event Mode – The mode in which the BWC is actively recording video and audio on the BWC (i.e. activated).
  - G. Manual Activation – Switching the BWC device from *Pre-Event Buffering Mode* to *Event Mode*, to record both audio and video, by double pressing the event button.
  - H. Mute – Actively recording video but not the audio of the BWC.
  - I. Pre-Event Buffering Mode – The mode in which a continuous 30 second recording of all activities that occur prior to activation of the BWC is captured and then becomes part of the full recording upon activation.
  - I. Signal Activation – The process whereby a BWC automatically switches from *Pre-Event Buffering Mode* to *Event Mode* when a member’s firearm is drawn, a member’s Taser is armed, or when a member’s patrol vehicle emergency lights are activated.
- II. Training:
- A. All members assigned a BWC must complete training approved by the Cape Vincent Police Department on the operation of the system and this policy.
  - B. No member will wear or operate a BWC unless they have:
    - 1. Been authorized to do so by the Mayor or the Mayor’s designee.
    - 2. Received training on the proper care and use of the device.
- III. Recording:
- A. Mandatory Manual Activation:
    - 1. While BWCs are equipped with *Signal Activation*, members must

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manually activate the BWCs as trained.

2. BWCs must be activated:

- a. Immediately before exiting a patrol vehicle to interact with a person or situation.
- b. All uses of force, including any physical aggressions and uses of non-lethal or lethal weapons.
- c. All arrests and summonses.
- d. All interactions with people suspected of criminal activity.
- e. All searches of persons and property.
- f. Any call to a crime in progress.
- g. Investigative actions where there are interactions with members of the public.
- h. Any interaction with an emotionally disturbed person.
- i. Any instances where members feel any imminent danger or the need to document their time on duty.

3. Failure to record any mandatory recordings must be documented and notification must be made to the Officer In Charge (OIC) to include why a recording was interrupted, deactivated, or not made.

- a. The OIC must make a timely notification to the Mayor or the Mayor's designee, who will conduct an administrative inquiry to determine if a formal complaint should be initiated.

C. Special Circumstances for BWC Activation:

1. Inside of a court facility:

- a. Members must not record inside a court facility unless they are engaging in a mandatory activation activity: Refer to 22 NYCRR 29.1 - *Electronic Recording and Audio-Visual Coverage in Court Facilities and Court Proceedings*.

2. Members should not record inside a medical facility unless extenuating circumstances exist.

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3. Members should not record inside the Cape Vincent Police Department or the Jefferson County Public Safety Building unless extenuating circumstances exist.
4. If a member finds it necessary to record under previous sections 1, 2 or 3, notification must be made to the OIC as soon as possible.

D. Discretionary Activation:

1. Members may temporarily deactivate, not activate, or mute the BWC when:
  - a. Speaking with a confidential informant.
  - b. Conducting a strip search.
  - c. When a member of the public requests deactivation: however, the member may continue recording if that member thinks a record of that interaction should be generated.
2. Members may temporarily mute their BWC while conversing with members of law enforcement, while disengaged from an interaction with a member of the public.
3. Members must give a spoken reason for any deactivation or muting of the BWC as soon as practical for the event.

E. Deactivation of BWC Recording:

1. Members will deactivate the BWC recording when the interaction with the public has concluded.
2. In situations where the BWC is maintained in *Event Mode* and there is a reasonable concern regarding BWC battery or recording capacity, the member must make notification in compliance with section III, B, 3.
  - a. Unless a new incident that requires activation occurs.
3. Except where deactivation or non-activation of the BWC is permitted as stated above, the BWC must continue in *Event Mode* uninterrupted until the member's interaction with the public has concluded.

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IV. Security and Retentions:

A. BWC Recording Safeguards:

1. All BWC recordings are within the possession, custody, and control of the Cape Vincent Police Department.
2. BWC recordings will be safeguarded to ensure that access is limited to authorized personnel and the appropriate prosecutorial or other government agencies under appropriate circumstances.
3. Members will not copy, publish, share, edit, delete, alter, or disseminate any BWC recordings, or portions thereof, to anyone, except as authorized in their official capacity and in accordance with applicable law and this policy.

B. Storage and Retention of BWC Recordings:

1. All BWC recordings captured by members will be retained for a minimum of 6 months then automatically purged, unless there is a litigation hold or other legal obligation requiring the Cape Vincent Police Department to retain the recording(s) related to a particular incident for a longer period.
2. BWC recordings that are considered evidence or potential evidence related to a criminal proceeding, and those deemed relevant and material to any other enforcement or administrative matter, will be retained in accordance with the Cape Vincent Police Department's evidence and record retention policies.
3. Prior to the end of any applicable retention period, BWC recordings may be retained longer for training, historical, long term administrative value, or public interest value upon the approval of the Mayor or the Mayor's designee.
4. Retention periods for BWC are set by law and can be found under *NYS LGS-1 Schedule item 1280*.
5. If any questions concerning retention should arise the Attorney's office retained by the Village of Cape Vincent shall be notified for advice prior

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to any destruction.

V. Procedures:

A. General BWC Procedures:

1. Members: Pre-Shift:

- a. Retrieve your assigned BWC from the docking station.
- b. Inspect the BWC to ensure that the battery is properly charged to at least 75% and ensure its readiness by conducting an operational inspection.
- c. Position the BWC as trained.

2. Members: Post-Shift:

- a. Ensure all BWC recordings are appropriately categorized and labeled.
- b. Inspect your assigned BWC to ensure system integrity, prior to docking.
- c. Dock the BWC in the appropriate docking station to ensure BWC upload.

3. Notify the OIC immediately if a BWC is not functioning properly, becomes lost, stolen, or damaged.

B. Equipment Malfunction Procedures:

1. Members:

- a. When BWC equipment is malfunctioning, the member will immediately contact the OIC to report the equipment malfunction.

2. Office In Charge:

- a. Ensure the members is assigned a replacement BWC as soon as possible.

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C. Documenting BWC Recordings:

1. Members must categorize and label BWC recordings using all appropriate categories.

**Note:** Categories affect the retention and restriction of BWC recordings.

2. Members must also record the complete incident number assigned the case through the Jefferson County Spillman system in the field labeled "ID."

D. BWC Transfer and Storage Procedure:

1. BWC recordings will be temporarily stored on the BWC device itself until it is placed into the docking station for uploading to the cloud-based storage system.

VI. Access:

A. Use and Review of BWC Recordings:

1. BWC recordings will be accessed, reviewed, and used by Cape Vincent Police Department personnel only in the performance of their official duties and in connection with authorized operations.
2. Cape Vincent Police Department personnel will be permitted to access, review, and/or use BWC recordings when:
  - a. Conducting and documenting an investigation.
  - b. Preparing for or participating in civil litigation involving claims made against the Village of Cape Vincent, the Cape Vincent Police Department or Cape Vincent Police Department personnel.
  - c. Preparing or assisting with the preparation of responses to subpoenas and other legally mandated disclosures, including Freedom of Information Law (FOIL) requests, and criminal and civil discovery demands and obligations.
  - d. Preparing for testimony in a legal proceeding.

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- e. Investigating alleged misconduct or meritorious conduct.
- f. Reviewing recordings as training tools.
- g. If an active threat or exigent circumstance exists, members regardless of rank can view the recorded footage as soon as practical and notify the OIC as soon as possible.

3. Critical Incidents:

- a. Supervisory inquiry at critical incidents will not be delayed reviewing BWC recording(s). The OIC will ensure the BWC is powered off and secured prior to these inquiries.
- b. When a compelled critical incident interview is necessary, members may view their own BWC recording, if available.

4. Administrative Investigations:

- a. Prior to providing a compelled administrative statement, members may view their own BWC recording, if available.

B. Members must provide access to BWC recordings to the following through the cloud-based storage system:

- 1. The appropriate prosecutor when any portion of an incident relating to an arrest and/or prosecution is captured by a BWC.
- 2. The Attorney's office retained by the Village of Cape Vincent, in conjunction with their official duties, to also include any outside legal counsel retained by the Attorney's office retained by the Village of Cape Vincent.
- 3. To outside law enforcement agencies upon request when any portion of the incident relating to an arrest and/or criminal investigation is captured by a BWC.
  - a. If the agency is requesting the ability to download the BWC recording, the request must go through the Mayor or the Mayor's designee.
  - b. Any other request made by outside law enforcement agencies must go through the Mayor or the Mayor's designee.



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C. Public Disclosure of BWC recordings:

1. All public disclosure of BWC recordings must be in accordance with Cape Vincent Police Department Policy by authority of the Mayor or the Mayor's designee.
2. The public will not be allowed to review the BWC recordings while on scene.
3. Notification will be made to the recording member when the Cape Vincent Police Department releases BWC recordings to the media or for training purposes.
4. There shall be no disclosure of BWC recording by the Cape Vincent Police Department without the prior consent of the Mayor and after consultation with the Attorney's office retained by the Village of Cape Vincent if deemed necessary. All disclosures of BWC recordings will be in accordance with the current FOIL Procedures policy, number CV-40-23-02-01.

D. Unauthorized Use or Disclosure:

1. Cape Vincent Police Department issued BWC's will only be used to capture or collect information for the purposes specifically authorized by this policy.
  - a. All other purposes are strictly prohibited.
2. All Cape Vincent Police Department personnel are prohibited from accessing, copying, or making secondary recordings (i.e., cell phone camera recordings) of any BWC recording for any non-official purposes, which includes for personal or commercial purposes.
3. Any unauthorized access, use, or release of BWC recordings captured, duplicated, recorded, or otherwise produced is strictly prohibited.

VII. Supervisory and Administrative Duties:

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A. Administrator(s) or Designee:

1. The Mayor or the Mayor's designee shall have oversight over the BWC program; those responsibilities will include, but are not limited to:
  - a. Define Security Settings.
  - b. Create custom roles and permissions.
  - c. Ensure proper procedures are followed.
  - d. Conduct periodic reviews of retained BWC recordings to ensure integrity of the system.
  - e. Coordinate maintenance and repairs for the BWC.
  - f. Conduct annual review of the policy and procedures contained herein and for making recommendations for any necessary amendments.
  - g. Coordinate review of BWC recordings scheduled for destruction.

B. Officer In Charge:

1. Ensure members are recording events and activities as required.
2. Review BWC recordings as appropriate, provide feedback, and address any operational deficiencies observed.