	NEW PALTZ POLICE DEPARTMENT Policy and Procedures	
	<i>Subject</i> 134.0 Body Camera	
	ISSUED: June 10, 2020	EFFECTIVE: June 13, 2020
	REVISED:	RESCINDED:
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Body Cameras

134.1 PURPOSE

The purpose of this policy is to serve as a guideline to the members of the New Paltz Police Department on the use of body worn cameras in performance of their duties as well as the recording, storing, retaining, releasing and maintaining data from a body worn camera which are used to document a member's enforcement related activities.

134.2 POLICY

The New Paltz Police Department will provide members with Watch Guard VISTA body worn cameras for use during the performance of their duties. The use of these cameras is intended to enhance the mission of the New Paltz Police Department to provide the highest quality of police services by capturing contacts between members of the Department and the public. Body-worn cameras will also assist in training, gathering evidence, prosecuting criminal cases, promote transparency and provide an objective record of an incident.


It shall be the policy of the New Paltz Police Department that members that are assigned body cameras wear and activate their BWC's when such use is appropriate to the proper performance of their official duties, and where the recordings are consistent with this policy and applicable law(s).

134.3 PRIVACY

- A. All recordings made by members acting in an official capacity of this department shall remain the property of the Department regardless of whether those recordings were made with department issued or personally owned recorders. Members shall have no expectation of privacy or ownership interest in the content of these recordings.
- B. Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.
- C. Officers should attempt to avoid recording people who are nude or when sensitive human areas are exposed unless considerations are outweighed by a legitimate law enforcement interest.

134.4 MEMBER RESPONSIBILITIES

- A. Prior to going into service, each uniformed member will be responsible for making sure they are
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equipped with a department issued body worn camera and that the camera is in good working order. If the recorder is not in working order or malfunctions at any time, the member shall promptly report the failure to their supervisor and obtain a functioning device as soon as practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever possible.

- a. Upon the start of tour and/or detail;
 - i. Members will sign out a BWC using the Watchguard kiosk located in the upper processing room.
 - ii. Once assigned, the member will remove the BWC from the charging station and synchronize it with the Watchguard in-car camera system in the vehicle they are assigned to use for the tour/detail. This is accomplished by placing the camera in the vehicle cradle.
 - iii. The member will then mount the synchronized BWC on their uniform.
 - iv. Upon completion of the tour/detail, members will return their BWC to the charging station in the upper processing room for downloading.


- B. Any member assigned to a non-uniformed position may carry an approved portable recording device at any time they believe that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever possible.
- C. Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member de-activated the recording. Members should include the reason for de-activation.
- D. Supervisors and/or shift OIC's will document which body worn camera is assigned to each officer per shift on the Roll Call Sheet.

134.5 DEVICE

- A. Body-worn cameras 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. The New Paltz Police Department utilizes the VISTA HD Wifi.
- C. All agency personnel who will use or otherwise be involved with BWCs shall receive training to include, but not limited to: activation; deactivation; upload procedures; proper maintenance; and the agencies policy and procedures on covered practices of a BWC.

134.6 DEFINITIONS

- A. **Body-Worn Cameras (BWC)** - small video cameras, typically attached to an member's clothing,


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helmet, or sunglasses that maximizes the camera’s ability to capture video and audio data of the member’s law enforcement related activities.

- B. **Agency Administrator** - An agency administrator 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.
- C. **Enforcement Related Activity** – Situations during a members’ official duties that include, but are not limited to:
 1. Immediately upon receiving a call for service. (While in patrol vehicle in route to a call for service).
 2. Self-initiated investigations and enforcement activities
 3. Arrests and transports
 4. Vehicle searches
 5. Consent to Search
 6. Physical or verbal confrontations or use of force
 7. Suspicious persons/Terry Stops
 8. Domestic violence calls
 9. Statements made by individuals in the course of an investigation or complaint
 10. Advisements of Miranda rights
 11. Seizure of evidence
 12. Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
 13. Any other legitimate law enforcement contacts where the officer believes that a recording of an incident would be appropriate.

134.7 ACTIVATION OF BODY WORN CAMERA

- A. Members are required to activate their body worn cameras upon engaging in an enforcement related activity, as defined in this policy, that occurs while the member is on duty, unless
 1. There is an immediate threat to the member’s safety;
 2. Turning on the body worn camera would be impracticable and place the officer in a tactical disadvantage;
 3. When activating the body worn camera could delay a member’s response to the safety needs of a citizen during a critical incident; or
 4. During the course of activation, the body camera malfunctions
- B. At no time is a member expected to jeopardize their safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as

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soon as practicable.

- C. Members should document in all reports, the presence of video captured by a BWC during the course of any enforcement related activity.

134.8 DISCRETIONARY RECORDING

Members may record other official activities when, in the member's judgment, it would be beneficial to record the activity and so long as it is not one of the prohibited recordings described in 134.13.

134.9 DEACTIVATION OF BODY WORN CAMERA

Once activated, the body worn camera should remain on continuously until the member's direct participation in the incident is complete, the member determines that a privacy right outweighs any legitimate law enforcement interest in recording, or the member determines the situation no longer fits the criteria for activation.

Members shall document verbally on camera and in writing in their report document the reason why an individual's privacy rights outweighed the legitimate law enforcement interest and the deactivation of the body worn camera.

134.10 FAILURE TO RECORD


- A. If a member fails to activate the body worn camera or the body worn camera malfunctions, the member will articulate in their case supplemental:
1. Why a recording was not made;
 2. Why a recording was interrupted;
 3. Why a recording was terminated.
- B. Shift supervisors shall review all case supplementals to ensure members have documented the reason a video may have not been captured by the body worn camera.

134.11 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

New York law permits an individual to surreptitiously record any conversation in which one party to the conversation has given their permission. Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

134.12 RECORDING STATEMENTS


Members shall properly document any use of the body worn camera to capture a video statement from a suspect in their reports. The video statement shall not take the place of a written statement where applicable. Documentation to include, but not limited to:

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- a. All required agency reports; and
- b. CPL 710.30 form, when necessary. Failure to notify the prosecutor of the recorded interview could prevent its use in court.

134.13 PROHIBITED USE OF BODY WORN CAMERAS

- A. Members are not to activate their body worn cameras for any of the following:
 - a. Performance of administrative duties or non-enforcement functions – examples include vehicle relays and inter-departmental mail runs
 - b. Routine activities within Department facilities
 - c. Departmental meetings or training unless authorized by the Chief of Police or their designee
 - d. Off-duty employment including paid detail assignments
 - e. Interviewing a current or potential confidential informant
 - f. Undercover officers
 - g. Interviewing the victim of a sex crime, as soon as the nature of the offense becomes apparent
 - h. Interviewing juvenile witnesses and victims as soon as they are identified as a juvenile by the responding member(s).
 - i. Interviewing a potential victim or witness who requests to speak to a member confidentially or desires anonymity and the situation is not confrontational
 - j. Interviewing a victim or witness who requests that they not be recorded as a condition of cooperation and the interests of justice require such cooperation;
 - k. Strip searches
 - l. When present in a court facility, except for the arraignment of a defendant in custody;
 - m. Conversations with all law enforcement personnel that involve case tactics or strategy;
- B. 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;
- C. Members are prohibited from using a body worn camera for the purpose of intimidating an individual or to discourage an individual from observing police activity, making appropriate inquiries of an officer, or making a complaint.
- D. Members are prohibited from using a body worn camera to record non-work-related personal activity. The body worn camera shall not be activated in places where an employee has a reasonable expectation of privacy, such as locker rooms, dressing rooms, or restrooms.
- E. The body worn camera shall not be intentionally activated to record conversations of fellow employees during routine, non-enforcement-related activities without their knowledge or during

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rest or break periods, or in designated break areas unless an active pre-existing investigation is underway and authorized by law.

- F. Members are prohibited from using a department-issued body worn camera and recording media for personal use and are prohibited from making personal copies of recordings created while on duty or while acting in an official capacity.
- G. Members are prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the department.
- H. Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Chief of Police or their designee. Any member who is authorized to use a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.


134.14 RETENTION OF RECORDINGS

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. All body worn camera data relating to a criminal incident should be considered digital evidence and processed in accordance with departmental policy.
3. 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.
4. 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 supervisor of the existence of the recording.

B. Retention schedule:


1. All recordings shall be retained for a period consistent with the requirements of the established records retention schedule but in no event for a period less than 180 days.
2. 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.
3. The established retention schedule can be extended beyond the 180 days minimum as necessary.

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4. Body worn camera data determined to have value in long term investigative, administrative or civil proceedings should be appraised for archiving in accordance with applicable statutory timeframes.
5. If no extension of video data retention is required, the recordings may be destroyed in accordance with the agency's retention procedures and with approval from the agency administrator.
6. If recording is deemed to be useful as a training tool, the recording may be kept for as long as practicable.

134.15 REVIEW OF RECORDED MEDIA FILES

- A. When preparing written reports, members should view their recordings as a resource. However, all recordings are the property of the New Paltz Police Department. Access to the videos, whether made part of a case investigative record or otherwise, shall be limited. New Paltz Police Department personnel are prohibited from accessing, tampering with, editing, copying, and/or uploading to any device or website, any video except in accordance with the performance of their official duties and with the approval of the Chief of Police or their designee. Members should not use the fact that a recording was made as a reason to write a less detailed report.
- B. Members are permitted to review only video footage of an incident in which they were involved for purposes of; conducting a criminal investigation, preparing for courtroom testimony or courtroom presentation, providing testimony pursuant to an administrative inquiry and assisting the officer in professional development.
 1. An officer may review video footage prior to making a statement, writing a report, being interviewed or testifying about any recorded incident. The officer shall have the option of reviewing video footage in the presence of the officer's attorney or labor representative in those circumstances where the law or collective bargaining agreement provide for such representation (such as disciplinary matters).
- C. Members are not permitted to review video prior to submitting their Defensive Action Reports and related supplemental reports. The New Paltz Police Department's Officer Defensive Action Policy adheres the objectively reasonable standard articulated in *Graham v. Connor*, 490 US 388 (1989), which states the degree of force used in effecting an arrest, investigatory stop, or other seizure is evaluated by using an objective, reasonable police officer standard. The reasonableness of each particular use of force will be judged from the perspective of a reasonable officer on the scene, based on the facts and circumstances known to and confronting the officer at the time. Based upon this foundation, defensive action reports and the accompanying case supplemental reports should be filed by officers using the facts and circumstances known to and confronting

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them at the time of the use of force and prior to reviewing body camera footage which constitutes hindsight.


1. Upon submission of the initial reports, members may view their body camera footage and file an amended report.
- D. Supervisors are authorized to review video footage at any time for the purposes of training, investigation of criminal cases, and upon receipt of a complaint against an officer concerning a specific incident.
- E. Recorded files may also be reviewed:
1. Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
 2. Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
 3. By media personnel with permission of the Chief of Police or their authorized designee.

134.16 DISSEMINATION OF RECORDINGS

- A. Except in accordance with the Freedom of Information Law, Civil Rights Law §50-a, or as required by other law of mandatory applicability, no other individuals shall have access to or be provided with any videos except for the Ulster County District Attorney’s Office and any individuals authorized by the Chief of Police. When video is responsive to a Freedom of Information Law request, it will be reviewed prior to release and may be withheld or redacted for the same reasons as other police records (including for reasons of personal privacy).
1. Recordings that unreasonably violate a person’s privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court (Public Officers Law § 89)
- B. Any requests for video data pursuant to a Freedom of Information Law request should be reviewed by the town’s attorney and/or the Ulster County District Attorney’s Office prior to release.

134.17 ADMINISTRATOR RESPONSIBILITIES

- A. Agency administrator duties include:
1. Ensuring proper procedures are followed in the downloading, review, release and retention of BWC data;
 2. Conducting periodic reviews of retained video data to ensure it has not been tampered with;
 3. Coordinating with IT regarding system related issues;

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4. Coordinating maintenance and repairs for the BWC;
5. Conducting annual review of the policy and procedures contained herein and for making recommendations for any necessary amendments thereto; and
6. Coordinating review of videos scheduled for destruction.

134.18 USE OF VIDEO IN ADMINISTRATIVE INVESTIGATIONS

- A. Body worn camera video will not be proactively reviewed for administrative disciplinary actions.
- B. Video footage may be used in support of criminal and/or disciplinary charges stemming from complaints and/or internal department investigations, including but not limited to case review and related reports.