



**LEBANON POLICE DEPARTMENT**  
**36 Poverty Lane, Lebanon, NH 03766**

*Effective Date* **September 17, 2018**     *Number*     **OP-119**

*Title*     **In-Car & Body Worn Camera (BWC) Systems**

**PURPOSE:** The purpose of this policy is to provide guidelines for use, management, storage and retrieval of audio/visual media recorded by the Lebanon Police Department's in-car video system and Body Worn Cameras (BWC).

**POLICY:** It is the policy of the Lebanon Police Department to utilize both in-car and body worn camera systems to the fullest extent practicable. All members serving in a patrol function are required to use recording devices to collect evidence and document interactions between officer and the public. Cameras shall be used only for legitimate purposes in accordance with all applicable state and federal laws, including, but not limited to, RSA 105-D. ONLY Lebanon Police Department BWC & in-car cameras shall be used during duty unless specifically authorized by the Chief of Police. For retention and destruction purposes, recordings from BWCs and in-car camera systems shall be treated the same. All such recordings shall be retained as tamperproof video files in the Department's system or in the cloud, and only for the duration of time permitted by law. The only information to be appended to such files is that which is necessary to identify and categorize an incident for future evidentiary use.

**I. DEFINITIONS**

- A. "Body Worn Camera" or "BWC" means an electronic camera system for creating, generating, sending, receiving, storing, displaying, and processing audio/visual recordings that may be worn about the person of a law enforcement officer.
- B. "Community caretaking function" means a task undertaken by a law enforcement officer in which the officer is performing an articulable act unrelated to the investigation of a crime. It includes, but is not limited to, participating in town halls or other community outreach, helping a child find his or her parents, providing death notifications, dealing with individuals asking for directions or other assistance.
- C. In-Car Camera System and Mobile Video Recorder (MVR): These are synonymous terms and refer to any system that captures audio and video signals capable of installation in a vehicle, and that includes at minimum, a camera, interior microphone, and monitor.
- D. "In uniform" means a law enforcement officer who is wearing any officially authorized uniform designated by the Lebanon Police Department, or a law enforcement officer who is visibly wearing articles of clothing, a badge, tactical gear, gun belt, a patch, or other insignia that he or she is a law enforcement officer acting in the course of his or her duties. This does NOT, however, include a detective or person in a plain clothes special assignment.
- E. "Law enforcement officer" or "officer" means any person employed by the Lebanon Police Department.
- F. "Law enforcement agency" or "agency" means a state, county, municipality, special district, security service or police of the community college system of New Hampshire and the university system of New Hampshire, security service of the legislative or judicial branch, unit of local government police department or any other

entity authorized by law to employ law enforcement officers or exercise police authority. The Lebanon Police Department is a law enforcement agency as defined here.

- G. "Law enforcement-related encounters or activities" include, but are not limited to, traffic stops, pedestrian stops, arrests, searches, interrogations, investigations, pursuits, crowd control, non-community caretaking interactions with an individual while on patrol, outside details when the officer is providing a police presence, security or enforcement duties, calls for service or any other instance in which the officer is enforcing the laws of the municipality, county, or state. The term does not include:
1. traffic control details; or
  2. Public Relations functions; or
  3. Community caretaking functions.
- H. "Recording" means the process of capturing data or information stored in a recording medium.
- I. "Recording Medium" means any recording medium for the retention and playback of recorded audio and video including, but not limited to, VHS, DVD, hard drive, cloud storage, solid state, digital, flash memory technology, or any other electronic medium.
- J. "Subject of the recording" means any law enforcement officer or any suspect, victim, detainee, conversant, injured party, witness, or other similarly situated person who appears on the recording and shall not include people who only incidentally appear on the recording.

## **II PROCEDURES**

- A. Preparation for Patrol
1. Prior to use, pursuant to RSA 105-D:2, III, all officers shall be trained in the proper use of their camera systems. The training shall include the following:
    - a. Review of NH RSA 105-D.
    - b. Review of Lebanon Police Department Policy OP-119.
    - c. Systems feature and functions of BWC and in-car camera systems.
    - d. Procedure for archiving and saving BWC and in-car camera recordings.
    - e. Review of privacy rights and associated case law.
  2. Prior to any camera deployment, all personnel shall review and acknowledge having received the above-listed training.

## B. Patrol Operations – Use of Cameras

1. In-car camera systems and BWCs shall always be properly positioned and adjusted to the correct viewing angle to record law enforcement-related encounters or activities to the fullest extent possible. BWCs will be worn on the outermost layer of the officer's uniform in the area of the sternum.
2. Prior to beginning a tour of duty, officers shall determine if the recording equipment assigned to them is positioned correctly and working properly and shall promptly notify a supervisor of a malfunction or problem.
3. Officers utilizing a marked cruiser for any function shall deploy and utilize to its fullest capabilities an in-car mounted recording system, including, but not limited to, while using lights and siren, while conducting law enforcement-related encounters or activities within view of the cruiser's cameras, or while transporting persons in the rear of the cruiser. During arrestee or prisoner transports, front- and rear-facing cameras (if equipped) shall remain in continuous operation.
4. Officers equipped with BWCs shall only use Department issued BWCs. Officers will only use them while in uniform and during engagement in a primary patrol function, or while engaged in a non-traffic control related outside detail, while on duty. Officers shall not use BWCs at any other time or for any other purpose unless permitted by the Chief of Police.
5. Officers shall activate the video and audio components of BWCs and start recording upon arrival on scene of a call for service or when engaged in any law enforcement-related encounter or activity, or upon activation of lights and siren. It should be noted that officers will have to activate the BWC manually as it is not triggered by the in-car camera system.
6. Once activated, the BWC shall remain activated until the event is completed in order to ensure the integrity of the recording, unless otherwise provided in this policy (*see, e.g., Section C Audio and Video Recording Restrictions, Exceptions and Prohibitions*).
7. Officers shall inform an individual that he or she is being recorded as soon as practicable. When notification is not made, the recording officer shall note the reason for non-notification within the associated report.
8. If exigent circumstances exist which prevent the BWC or in-car camera system from being activated as set forth above, the device must be turned on as soon as practicable.
9. If an officer fails to activate the BWC or in-car camera system or fails to record the entire contact, interrupts the recording, or if the BWC or in-car camera system malfunctions, the officer shall

document why a recording was not made, was interrupted, or was terminated as part of the associated police report.

10. Recordings shall be specific to an incident. Officers shall not indiscriminately record entire duties or patrols.
11. Computer terminals in the station will be available for officers to review their own videos for their recollection when preparing reports. It must be noted in all reports as to whether a video was generated or not, and if not, then the reason it was not recorded. This is necessary to notify all that read the reports that there is, or is not, video of the incident.

### C. Audio and Video Recording Restrictions, Exceptions and Prohibitions

1. Officers **shall not** use a BWC or in-car camera system to record any of the following:
  - a. Communications with other police personnel except to the extent such communications are incidental to a permissible recording.
  - b. Encounters with police personnel or individuals whom the officer knows are acting in an undercover capacity or as confidential informants respectively, unless expressly directed to be included as part of the investigation.
  - c. Intimate searches.
  - d. An interview with a crime victim unless his or her express verbal or written consent has been obtained before the recording is made. Any recording obtained shall be consistent with the New Hampshire attorney general's model protocol for response to adult sexual assault cases, the New Hampshire attorney general's domestic violence protocol for law enforcement, the New Hampshire attorney general's stalking protocol for law enforcement, and the New Hampshire attorney general's child abuse and neglect protocol, as applicable. This paragraph shall not apply in cases where a parent or legal guardian is the subject of an investigation to which a juvenile is a victim or witness. In such cases, the juvenile may be interviewed without the express verbal or written consent of the parent or legal guardian under investigation.
  - e. Interactions with a person seeking to report a crime anonymously. In such an instance, the law enforcement officer shall, as soon as practicable, ask the person seeking to remain anonymous if the person wants the officer to use the officer's BWC or in-car camera recording system. If the person responds negatively, the law enforcement officer shall deactivate all audio and video functions.
  - f. While on the grounds of any public, private, or parochial elementary or secondary school, except when responding to an imminent threat to life or health or a call for service.

- g. In any instance when it is believed that an explosive device may be present and electrostatic interference from the BWC may trigger the device.
  - h. When on break or otherwise engaged in personal activities.
  - i. While in court or participating in court-related activities such as testifying or seeking warrant authorizations.
2. In locations where an individual has a reasonable expectation of privacy, such as a residence, a restroom, or a locker room, a citizen may decline to be recorded *unless* the recording is being made while executing an arrest warrant, or a warrant issued by a court, or the officer is in the location pursuant to a judicially recognized exception to the warrant requirement. Officers shall inform an individual of this option. If a citizen then declines to be recorded, the officer shall deactivate the audio and video functions, and any images shall, as soon as practicable, be permanently distorted or obscured. The officer shall document the reason why the camera was not activated in the associated police report.
  3. Officers may use their discretion when deciding to activate the BWC during incidental public contact during the ordinary course of a duty day. Officers are not required, or expected, to activate their Body Worn or In-Car Cameras when conducting Street Time, Community Policing or engagement activities or other situations that do not involve the delivery of police services. Officers may, at their own discretion, activate their cameras during these instances if they feel it useful or necessary. Officers may also activate their cameras outside of the mandatory requirements at their discretion but must inform individuals they are being recorded and must abide by exceptions and prohibitions.

D. Archival and Saving Procedures: Data Retention and Destruction

1. At the conclusion of each patrol shift, all BWC and in-car camera recordings shall be downloaded using the appropriate protocol. Each officer shall dock and download his/her own BWC unit, unless directed otherwise by a supervisor. This docking will cause transfer of data to the Agency approved cloud based or server storage system.
2. Recordings made by a BWC or in-car camera system shall be permanently destroyed by overwriting or otherwise no sooner than 30 days and no longer than 180 days from the date the images were recorded, except that such recording shall be maintained by the Lebanon Police Department or its storage agent for a minimum of 3 years if:
  - a. The recording is being retained by the Lebanon Police Department as evidence in a civil or criminal case, or as part of an internal affairs investigation, or as part of an employee disciplinary investigation; or
  - b. The recording captures images involving any of the following:

- i. Any action by a law enforcement officer that involves the use of deadly force or restraint.
- ii. The discharge of a firearm, unless for destruction of an animal.
- iii. Death or serious bodily injury.
- iv. An encounter about which a formal complaint has been filed with the police department within 30 days of the encounter.

3. Notwithstanding the provisions of section 2 and its subsections (above) the following shall apply:

- a. If there is any other legal requirement for retaining the recording, including but not limited to litigation, a pending criminal case, or a valid court or administrative order, then the recording shall be retained only as long as is legally required.
- b. The Chief of Police may designate the recording as a training tool, provided that a person's image and vehicle license plate numbers shall first be permanently deleted, distorted, or obscured, or the person has been given an opportunity in writing to decline to have his or her image and/or vehicle license plate number to be so used. A recording so designated and prepared may be viewed solely by officers for training purposes only.

4. Officers equipped with BWCs or in-car camera systems shall bear primary responsibility for the proper preservation of recordings captured by the equipment assigned to them and required to be preserved under section 2 above. Any attempt to alter, manipulate or modify recordings other than to classify videos is a violation of this policy and the employee may be subject to termination and criminal liability. Department administrators shall oversee proper preservation. *See* Section E.1.g below. In any situation where a recording is to be preserved and not destroyed in the normal course, the officer shall do the following:

- a. The system provides the ability to classify the nature of an officer's contacts/recordings. This should take place as soon as possible by the officer wearing the BWC. Recordings are classified so that they can be recalled with greater efficiency and accuracy. It is mandatory that by the end of the officer's shift, their BWC and in-car recordings are classified. Also ensure that the Body Worn Camera box is checked.

The classification categories, along with the retention periods, for the officers to use are:

- 1.) Criminal Case/Incident/Arrest (held for three years or until case is completed through court and appeals)
- 2.) Deadly Force – minimum of three years
- 3.) Death/Serious Injury – minimum of three years
- 4.) Discharge of a Firearm (non-animal) – minimum of three years

- 5.) Permanent – approved by the Chief or his designee only
- 6.) Training Demo – approved by the Chief or his designee only
- 7.) Uncategorized – held for no less than 30 days and no longer than 180 days.

5. Unless specifically authorized by the Chief of Police or designee, no person, including without limitation officers and their supervisors, shall edit, alter, erase, delete (other than erasing or deleting at the end of an applicable retention period specified by section C above), duplicate, copy, subject to automated analysis or analytics of any kind, including but not limited to facial recognition technology, share, display, or otherwise distribute in any manner any BWC or in-car camera recordings or portions thereof. This paragraph shall not apply to the sharing of a still image captured by the BWC or in-car camera to help identify individuals or vehicles suspected of being involved in a crime.
6. All requests for public disclosure will be handled consistent with NH RSA 105-D and 91-A, and will be released only with approval of the Chief of Police or his or her designee. All recording media, recorded images and audio recordings are the property of the Lebanon Police Department. Dissemination outside of the agency is strictly prohibited without specific written authorization of the Chief of Police or his or her designee.
7. Requests for BWC and in-car video shall be submitted in writing and submitted to the Records Division to be processed in accordance with this policy. The assigned commander will cause a review of video and recommend any necessary redactions.
8. Notwithstanding the foregoing sections (2) and (5), any recording undertaken in violation of this policy (e.g. Section II, C ("Audio and Video Recording Restrictions, Exceptions and Prohibitions", above) or any other applicable law shall be immediately destroyed and, whether destroyed or not, shall not be admissible as evidence in any criminal or civil legal or administrative proceeding, except in a proceeding against an officer for violating the provisions of this policy and/or a violation of NH RSA 105:D-2, et. al. In a proceeding against an officer for violating the provisions of this policy and/or RSA 105:D-2, the recording shall be destroyed at the conclusion of the proceeding and all appeals.
9. Recorded images and sound made from a Lebanon Police Department-issued BWC or in-car camera system shall be for law enforcement purposes only. All access to this data shall be audited to ensure that authorized users only are accessing the data for law enforcement purposes only. All access to BWC and in-car camera system data shall be authorized by the Chief of Police or designee and only for the purposes set forth in this policy. However, supervisors may, at any time, review BWC video of a subordinate officer, in the performance of their supervisory process.
10. If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other use of deadly force, the Lebanon Police Department may limit or restrict an officer from viewing the video file.

11. Recordings shall not be divulged or used by the Lebanon Police Department for any commercial or other non-law enforcement purpose. If the Lebanon Police Department authorizes a third party to act as its agent in storing recordings, the agent shall not independently access, view or alter any recording, except to delete videos as required by law or the Department's retention policies. Neither the Lebanon Police Department nor its storage agent, if any, shall subject any recording to analysis or analytics of any kind, including without limitation facial recognition technology and data mining.
12. BWC and in-car camera system recordings relevant to criminal prosecutions shall be made available to defendants upon specific request through the discovery process. In response to a general request for the production of discoverable materials by a defendant or his counsel, the Department Prosecutor will include the following statements in a cover letter accompanying the production of such discoverable materials:

*“In addition to the enclosed materials, the Lebanon Police Department is hereby notifying you that a recording or recordings from cruiser-mounted dash cameras and/or officer-worn body cameras may exist in this case. If such recordings do exist, you may request a copy of said recordings from the prosecutor's office. Such copies will be available upon written request of the prosecutor's office up to 15 days before any scheduled trial. Failure to request copies of these recordings within this time frame may result in the recordings being recycled or disposed of.”*

*While recordings may be made available to you, please note that your use of such recordings is limited to your defense in the criminal proceedings currently pending against you, or other related proceedings, and the recordings may not be further disseminated. Pursuant to NH RSA 105-D:2, XII no person shall "edit, alter, erase, delete, duplicate, copy, subject to automated analysis or analytics of any kind, including but not limited to facial recognition technology, share, display or otherwise distribute in any manner any BWC recordings or portions thereof.”*

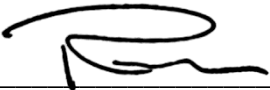
#### E. Department Administrators

1. Administrators shall be designated by the Chief of Police and are responsible for:
  - a. Providing training on all aspects and requirements on the use of the BWC and in-car camera systems.
  - b. Overseeing the assignment of the camera systems.
  - c. Periodic reviews of officer assigned media in order to:
    - i. Assess officer performance
    - ii. Assure proper functioning of MVR and BWC equipment



- iii. Determine if MVR/BWC equipment is being operated properly
  - iv. Identify recordings that may be appropriate for training
    - 1. Supervisors shall complete these reviews a minimum of two times quarterly per officer.
    - 2. Minor infractions (not criminal in nature) discovered during routine reviews should be used as training opportunities and not as routine disciplinary actions. Should the behavior become habitual after being informally addressed, the appropriate disciplinary or corrective action shall be taken.
  - d. Accessing the server and facilitating access of the videos as needed by supervisors, prosecutors, administration, defense counsel or the Grafton County Attorney's Office
  - e. Facilitating needed repairs.
  - f. Monitoring available storage.
  - g. Monitoring purging schedule for compliance.
  - h. Overseeing retention of recordings as required under section D above.
  - i. Auditing access to ensure that authorized users only are accessing the data for law enforcement purposes only.
2. This policy will be reviewed annually for necessary updates and changes.

*This Procedural Regulation is to be used in conjunction with all relevant existing Departmental Policies, Rules and Regulations.*



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Chief Richard R. Mello

This directive is for departmental use only and does not apply in any criminal or civil proceeding. Department policy should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting. See also RSA 516:36. This Procedural Regulation is to be used in conjunction with all relevant existing Departmental Policies, Rules and Regulations.