



Moved By	Councillor Aaron Burchat	Resolution No.:
Last Name Printed	Burchat	282-22
Seconded By	Councillor Emily Chorley	Council Date:
Last Name Printed	Chorley	August 22, 2022

WHEREAS at the Committee of the Whole Meeting on August 15, 2022, Council considered a memo from the Grant and Policy Writer, regarding the Town of Cobourg Body-Worn Camera Policy;

NOW THEREFORE BE IT RESOLVED THAT Council approve the Town of Cobourg Body-Worn Camera Policy to implement the usage of body-worn cameras by municipal law enforcement officers during investigations and within the course of their operations.



Corporation of the Town of Cobourg

Division:	Corporate Services	Effective Date:	August 15, 2022
Department:	Legislative Services	Approval Level:	Council
Policy Title:	Body-Worn Camera Policy	Section #	3-1
		Policy #	LEG-ADM17

Purpose

The purpose of this policy is to provide and set out rules and guidelines for the use of body-worn cameras (BWCs), the collection, management, storage, and retrieval of digital media recorded using the BWCs. This policy authorizes municipal law enforcement staff to deploy and use BWCs ensuring that their use by staff occurs in such a way as to make certain that public interests are served by:

- Improving the transparency of the Town with regards to any potential allegations of discreditable conduct, improper conduct, or other types of misconduct by staff.
- Ensuring that accountability of the Town and staff through internal and public oversight systems.
- Protecting individuals' right to privacy by limiting access to recordings from body-worn cameras to the greatest extent possible and to as few people as possible.
- Ensuring individuals have access to personal information pertaining to them which is collected by the BWCs.
- Enhancing public trust during the enforcement process.
- Enhancing public and officer safety.
- Providing improved evidence for investigation, judicial, and oversight purposes.
- Ensuring a timely and fair response to misconduct allegations against municipal law enforcement staff, in a manner that enhances public and staff confidence in the Town's complaint and enforcement process.
- Providing information as to the effectiveness of the Town's procedures and training.

Policy

It is the policy of the Legislative Services Division that officers shall activate the BWCs when such use is appropriate to the proper performance of their official duties, where the recordings are consistent with this policy and law.

1. General

This policy is designed to:

- Implement recommendations made by the Office of the Privacy Commissioner of Canada and the Information and Privacy Commissioner of Ontario and to ensure that new recommendations and best practices continue to be monitored and implemented as they are identified by the relevant Provincial and Federal authorities.



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Division: Corporate Services	Effective Date: August 15, 2022
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Policy Title: Body-Worn Camera Policy	Section # 3-1 Policy # LEG-ADM17

- Specifically identify the legislative authority for the collection of personal information that will be captured by the cameras and ensure that any such collection aligns with that authority and all other relevant legislation, including any legislative provisions addressing data, information or record storage, access, use and disclosure.
- Ensure that all use of BWCs and their recordings is consistent with the Ontario Human Rights Code.
- Failure to comply with any provision of this policy shall not invalidate any proceeding or any step, document, or order in a proceeding otherwise in accordance with any municipal by-law, provincial, or federal legislation.

2. Objective

The BWC is an overt recording device to assist Municipal Law Enforcement Officers in the lawful execution of their duties. BWCs are intended to capture specific interactions with the public and not intended for full-shift recording. Any covert recording or personal-use recording is prohibited.

The Town will use BWCs to accomplish several objectives. The primary objectives are as follows:

- BWCs allow for accurate documentation of officer-public contacts, investigations, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
- Audio and video recordings also enhance the Town's ability to review enforcement proceedings, officer's interaction with the members of the public, the gathering of evidence for investigative and prosecutorial purposes, and to provide additional information for officer evaluation and training.
- The BWCs may also be useful in documenting infractions, violations and accident scenes, or other events that include the confiscation, removal of equipment, personal items, and vehicles from Town or private property.

3. Use of BWCs

Officers shall activate their BWC as soon as reasonably possible, prior to arriving at a call for service and all interactions with the public that are undertaken in whole or in part to further a valid law enforcement purpose. Interactions with the public include statements that would normally be taken in the field including utterances and spontaneous statements. Officers are not required to activate their BWC immediately if there is a threat to the life or safety of the officer or a member of the public making it impossible or dangerous to activate the camera.



Corporation of the Town of Cobourg

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		Policy #	LEG-ADM17

Officers can deactivate their BWC once the interaction with the public is complete.

Officers shall not deactivate the BWC until all interaction with the public has ended, unless otherwise stated in this policy. Deactivation of the BWC should be as limited as possible, and where such exceptions serve to protect the dignity of members of the public, the officer must record the specific reason for deactivation.

Officers shall not intentionally prevent the BWC from capturing video or audio during an interaction with a member of the public with the sole exception of temporarily covering the lens to protect the dignity of an individual during situations of a sensitive nature. Situations of a sensitive nature may include nudity, medical episodes, medical treatment, and extreme emotional distress. In these cases, the officer should take steps to protect the dignity of the individual while ensuring that they are not in a situation where they might be encountering an element of danger while the lens is covered. Officers must always be aware of the impact that recording may have on the member of the public whom they are recording.

Officers may deactivate their BWC before the conclusion of an incident for the purpose of protecting law enforcement strategies, provided that:

- The officers are not interacting with members of the public or are in the vicinity of members of the public while the BWC is deactivated.
- The BWC is reactivated at the earliest opportunity and prior to any interaction with a member of the public.
- The reason for the deactivation is recorded in the officer's duty notebook.

4. Restrictions on Use of BWC

BWCs shall be used only in conjunction with official law enforcement duties. The BWCs shall not generally be used to record:

- Communications with other Town staff without the permission of the Chief Administrative Officer or designate.
- When on break or otherwise in personal activities.
- In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
- Discussions relating to investigative tactics or personnel safety, health, and wellness.
- Situations that reveal investigative techniques and procedures.
- Administrative duties.
- Interactions which could potentially identify a confidential source of information.



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Policy Title:	Body-Worn Camera Policy	Section #	3-1
		Policy #	LEG-ADM17

BWCs shall not be activated in places or circumstances which have substantially heightened expectations of privacy, except under exigent circumstances or with lawful authority. These locations include, but are not limited to court rooms, places of worship, hospital and other healthcare facilities, and places protected by legal privilege (ex. Law offices and media facilities).

No officer shall use a BWC to intercept communications that they are not party to.

5. Notification of Recording

Officers must wherever possible inform members of the public that they are being recorded at the earliest opportunity during an interaction.

Recording within a private place is dependent on the lawful authority upon which an Officer's attendance at the location is based (ex. Consent of the Owner/occupant, exigent circumstances or in relation to a search warrant).

6. Recording with the Consent of the Owner/Occupant

An officer must receive the fully informed consent of the owner or occupant of a private place or residence before they can activate their BWC at the location. The owner or occupant can request that an interaction not be recorded at any time during the officer's attendance at the private place. If consent for recording is revoked by the owner or occupant, the officer shall deactivate their BWC or leave the private place or residence.

When an officer enters a private place based on the consent of the owner/occupant, the officer must inform occupants as soon as reasonably possible of the use or intended use of a BWC and inquire whether these individuals request that the BWC be deactivated.

7. Recording in Exigent Circumstances or While Executing a Search Warrant & Objections to Recording

Officers may encounter situations where individuals object to being audio and/or video recorded. If the objection occurs while in a public place, officers shall continue to record in accordance with this policy.

If the objection occurs while in a private place or a place or circumstance with a heightened expectation of privacy, except where the attendance at the location is based on exigent circumstances or the execution of a search warrant, officers shall continue to record in accordance with this policy.



Corporation of the Town of Cobourg

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		Policy #	LEG-ADM17

8. Process for Activation/Deactivation of BWC

Where reasonably possible, an officer activating or deactivating their BWC should record a brief audible statement on the recording indicating the reason why the BWC is being activated or deactivated. If an officer has not recorded in full or in part an interaction with a member of the public, the officer shall document the specific reason that a recording was not made in part or in full in both their duty notebook and the service request file for the investigation.

Officers shall also maintain written notes for interactions with the public where their BWC is activated. If an officer deactivates their BWC at any point during the interaction, they shall note the deactivation and the reasons for the deactivation in their duty notebook.

9. Training

Officers are required to receive relevant training for the use of a BWC along with the associated systems before being issued a BWC, and subsequent annual training requirements to ensure that officers can comply with this policy.

10. Transparency

Up-to-date information shall be posted on the Town website concerning the collection of BWC recordings, including:

- A current copy of the Town's Body-Worn Camera Policy.
- How individuals can complain about use or lack of use of BWCs.
- What information is being collected.
- The length of applicable retention periods.
- How individuals can make requests for viewing or releasing to the public such recordings.
- Information about how to appeal to the Information and Privacy Commissioner of Ontario where a request is denied in whole or in part.

11. Secure Retention and Disposal of Recordings

In consultation with the Information and Privacy Commissioner of Ontario, and in accordance with all applicable legislation, recordings from BWCs, including any meta-data produced by the BWCs or the technology supporting the Town's BWC, will be:



Corporation of the Town of Cobourg

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		Policy #	LEG-ADM17

- Stored on a secure Canadian storage server in accordance with all applicable provincial and federal legislation and security best practices, to prevent any editing, tampering, and unauthorized access to recordings and meta-data.
- Encrypted within the camera, during transit to the storage server, and while in storage.
- Destroyed at the end of their retention period in a secure manner which prevents recovery and unauthorized access to the recordings and meta-data.

In accordance with all applicable legislation, the minimum retention period for recordings from BWCs shall be 60 days.

The recordings of evidence captured during an investigation shall be retained for a minimum of 2.5 years after the last event the evidence was used or disclosed.

In case of a potential or actual access breach of the Town's recordings and meta-data storage services, the Town shall make a public post on the Town's website and social media to notify the public and impacted individuals of the potential breach.

The Town shall store all data on locally operated storage services, with the ability to back up data on off-site cloud storage platforms hosted within Canada.

The Town shall exercise all due diligence to ensure that all data is protected and backed up accordingly on a daily or weekly basis. The Town and its employees shall not be held responsible for any data loss which occurs due to circumstance beyond the control of the Town. These circumstances may include, but are not limited to:

- Data breaches from external malfunction.
- A storage device or server malfunction.
- Power surges.
- Theft of storage device or equipment.
- Fire or natural disaster.

12. Use and Disclosure of BWC Recordings

Access to or viewing of production of BWC records for the public will be provided only in accordance with this policy or required by law. Without limiting the generality of the foregoing, the following are examples of circumstances where this will occur:

- Anyone who has the legal authority shall have access to such recordings, including in relation to the prosecution of Municipal Law Enforcement cases and access requests granted under the Municipal Freedom of Information and Protection of Privacy Act



Corporation of the Town of Cobourg

Division:	Corporate Services	Effective Date:	August 15, 2022
Department:	Legislative Services	Approval Level:	Council
Policy Title:	Body-Worn Camera Policy	Section #	3-1
		Policy #	LEG-ADM17

(MFIPPA). Legal authorization can be by statute, regulation, or prior judicial authorization.

- Members of the public or their representatives can make a request for access to BWC footage upon filing a freedom of information request under MFIPPA.
- All request for a copy of BWC records from a member of the public shall be directed to the Legislative Services Department.

Anyone who obtains records of BWC recordings may not further disclose these recordings to other parties without lawful authority.

The Town will ensure that an audit trail is created and maintained by the Town that will identify with respect to every recording, the time of access, whether a copy was provided to the requester, and any information gathered under the MFIPPA information access request process.

The Town shall ensure that additional safeguards to enhance the storage and limit access to recordings of minors who are suspected of an offence or are witnesses to a suspected offence, in accordance with the applicable legislation.

A member of the public may request to view recordings from a BWC if:

- The member of the public making the request is:
 - An individual participating in the interaction captured in the recording.
 - The parent or legal guardian of a minor participating in the interaction captured in the recording.
 - The next-of-kin of a deceased individual participating in the interaction captured in the recording.
- The identity of any other member of the public who appears in the recordings can be appropriately concealed through measures such as image blurring and voice distortion.

The Town may refuse to release to the public recordings where such refusal is in accordance with MFIPPA, provided that the reason for the refusal is provided to the requester in writing.

The Director of Legislative Services/Clerk or designate may initiate the release to the public of recordings from BWCs taking into consideration relevant factors, including what is consistent with federal and provincial laws and the public interest, and what is reasonable in the circumstances of the case.

In cases where the Town releases to the public any recordings from BWCs that include images or voice recordings of members of the public, the Town shall ensure that:



Corporation of the Town of Cobourg

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Policy Title:	Body-Worn Camera Policy	Section #	3-1
		Policy #	LEG-ADM17

- The identities of all members of the public captured in the recordings are concealed through measures such as image blurring and voice distortion unless the Town is required by law to release the recordings in another form.
- The Director of Legislative Services/Clerk or designate will include with the release a justification of the public interest in releasing the recording.

Recordings released to the public must be full and unedited except for measures such as image blurring and voice distortion for the purpose of concealing the identities of members of the public.

The Town may use recordings from BWCs for the purposes of training after the identities of all members of the public captured in the recordings are concealed through measures such as image blurring and voice distortion.

13. Auditing and Public Reporting

The Town may conduct an audit of:

- Incidents where a misconduct case is filed during the reporting and retention period.
- A sample of incidents during the reporting period that was not initiated by a call for service.
- Incidents wherein a BWC was disabled for the purpose of protecting law enforcement strategies.
- A sample of incidents whose retention period has expired during the reporting period.
- The recording begins prior to the beginning of the interaction with the member of the public, and if not, that a satisfactory explanation for the failure to activate the BWC before the interaction began was provided in accordance with available Town procedures.

The audit may include a review of BWC recordings for the above incidents to ensure that:

- The subject of the recording is informed at the earliest opportunity in the interaction that the interaction is being recorded for video and audio.
- Any obstruction of the lens or gaps in the recording are justified and of reasonable duration.
- The recording ends:
 - After conditions for an exception have been established.
 - After the interaction has ended and the officer has left the scene.



Corporation of the Town of Cobourg

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Policy Title:	Body-Worn Camera Policy	Section #	3-1
		Policy #	LEG-ADM17

- All-access to the recordings was justified and necessary.
- The Town is following required retention and destruction practices.

Staff shall advise the Town Council and file with it a new copy of the policy governing BWC use whenever any changes to the policy are made.

14. Procedures for BWC Camera Use

BWC equipment is issued to municipal law enforcement staff employed in the Municipal Law Enforcement Department. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by the Director of Legislative Services/Clerk, in consultation with the Chief Administrative Officer. Officers shall use only BWCs issued by the Town. The BWC equipment and all data, images, video, and meta-data captured, recorded, or otherwise produced by the equipment is the sole property of the Town.

BWC equipment is the responsibility of the individual officer and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the Manager of Bylaw Enforcement and Licensing as soon as possible so that a replacement unit may be procured. Officers shall inspect and test the BWCs prior to each shift to verify proper functioning and shall notify the Manager of Bylaw Enforcement and Licensing of any problems.

Officers shall upload all recordings from their BWCs at the end of their shift. Any supervisors must also ensure that all recordings from BWCs used by officers under their supervision have been uploaded. 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 Director of Legislative Services/Clerk or designate. Officers should inform Manager of Bylaw Enforcement and Licensing or appropriate authorities of any recordings that may be of significant interest or sensitive in nature.

If in the opinion of the Director of Legislative Services/Clerk or designate, a matter of significant consequence is captured using a BWC, the matter may be disclosed or brought forward to Council for direction.

Requests for deletion of portions of the recordings must be submitted in writing and approved by the Director of Legislative Services/Clerk and in accordance with Town record retention laws and MFIPPA. All requests and final decisions shall be kept on file.

Officers shall note an incident and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.

Definitions



Corporation of the Town of Cobourg

Division: Corporate Services	Effective Date: August 15, 2022
Department: Legislative Services	Approval Level: Council
Policy Title: Body-Worn Camera Policy	Section # 3-1
	Policy # LEG-ADM17

“Activation” means any process which causes a body-worn camera to record audiovisual data.

“Call for Service” for the purpose of this policy, means an incident attended by a municipal law enforcement officer(s) in response to a call for assistance or service

“Deactivation” means the termination of any body-worn camera recording.

“Exigent Circumstances” means circumstances where there are reasonable grounds to suspect a threat to the life or safety of the officer or member of the public.

“Informed Consent” means voluntary consent from an owner or occupant of a private place or residence who has authority to consent, gives consent voluntarily, knows the nature of municipal law enforcement conduct and knows that they can refuse consent and who is aware of the potential consequences or jeopardy of giving that consent.

“Meta-data” means background information storage in the body-worn camera recordings that contains important details about the content of the recordings.

“Private Place” means a place where a person or persons enjoy a reasonable expectation of privacy.

“Public Place” means any place to which the public have access as of right or by invitation.

Scope

This policy applies to all Municipal Law Enforcement Officers that are designated/assigned to wearing BWCs over the course of their daily work activities.

Administration

The Manager of Bylaw Enforcement and Licensing shall ensure that officers equipped with BWCs utilize them in accordance with the policy and procedures defined in this policy.

The Manager of Bylaw Enforcement and Licensing may randomly review BWC recordings to ensure that the equipment is operating properly and that officers are using the devices appropriately. The Town may identify any areas in which additional training or guidance is required.

The Chief Administrative Officer shall implement and administer the terms of this policy and shall establish related operating procedures as required.



Corporation of the Town of Cobourg

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Section # 3-1
Policy # LEG-ADM17

Cross Reference

- Employee Code of Conduct – HR-AP-A11
- Freedom of Information Policy – LEG-ADM13
- Transparency and Accountability Policy – LEG-ADM8
- Town of Cobourg Record Classification and Retention Schedule 2020
- Model Governance Framework for Policy Body-Worn Camera Programs in Ontario (<https://www.ipc.on.ca/wp-content/uploads/2021/07/model-governance-framework-police-body-worn-camera-programs.pdf>).
- Cobourg Police Service Body-Worn Cameras webpage (<https://cobourgpolicesservice.com/bwc/>).

Resolution # 282-22	Revision Purpose/Description:	Municipal Clerk  Signature	Council Approval Date: August 22, 2022
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