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## Body-Worn Cameras

### 450.1 PURPOSE AND SCOPE

The primary purpose of using Body-Worn Cameras (BWCs) is to capture evidence arising from police-citizen encounters. This policy sets forth guidelines governing the use of BWCs and administrating the data that results (Minn. Stat. § 626.8473 and Minn. Stat. § 13.825). Compliance with these guidelines is mandatory, but it is recognized that officers must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain, and rapidly evolving. This policy does not apply to the use of squad-based recording systems (see Policy 446 Mobile Video Recorders).

The Chief Law Enforcement Officer (CLEO) or designee may supersede this policy by providing specific instructions for BWC use to individual officers, or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. The CLEO or designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details.

### 450.2 POLICY

It is the policy of this department to authorize and require the use of department-issued BWCs as set forth below, and to administer BWC data as provided by law.

### 450.3 DEFINITIONS

The following phrases have special meanings as used in this policy:

**Body-Worn Camera** means a device worn by a member that is capable of both video and audio recording of the member's activities and interactions with others or collecting digital multimedia evidence as part of an investigation and as provided in Minn. Stat. § 13.825.

**Adversarial** means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on their own are deemed adversarial.

**MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et.seq.

**Records Retention Schedule** refers to the Airport Police Department Records Retention Schedule.

**Law Enforcement Related** means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.

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**Evidentiary Value** means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.

**General Citizen Contact** means an informal encounter with a citizen that is not and does not become law enforcement related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting with directions, responding to requests for airport information, or receiving generalized concerns from a citizen about crime trends.

**Unintentionally Recorded Footage** is a video recording that results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in department locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.

**Official Duties**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

**Police Video and Data Coordinator** is responsible for the creation of procedures governing the use of body-worn cameras and has oversight for the security, storage, maintenance and dissemination of BWC data.

#### **450.4 USE AND DOCUMENTATION**

- A. Officers who have been issued a BWC must wear them when in uniform and working on-duty (regular and overtime shifts).
- B. Plainclothes officers will wear their issued BWC during any enforcement related encounter or activity where it would otherwise be required by this policy, unless it would create a safety hazard or compromise an undercover investigation. Unless the BWC can be covertly worn, they are not required to be utilized during plainclothes consensual encounters. An officer in plainclothes or undercover assignment must use a department issued BWC when wearing raid gear/temporary tactical gear and/or when executing search and arrest warrants. Detectives assigned to a Federal Task Force are required to follow that agencies Standard Operating Procedures (SOP) for body-worn camera program and only applies when officers are acting in that official capacity.
- C. Officers shall exercise reasonable care to prevent the loss or theft of BWCs issued to them.
- D. BWC recordings generated are the exclusive property of the Airport Police Department and shall be governed by this policy and law regarding government data and its collection and retention.

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- E. Officers may use only department issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department (in compliance with Minn. Stat. § 13.825, Subd. 6).
- F. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall test and ensure their issued BWCs are functioning at the beginning of each shift. Officers noting a malfunction during testing or at any other time shall promptly report the malfunction to the officer's supervisor. Supervisors shall take prompt action to issue the officer a spare BWC and make notification to the Police Video and Data Coordinator.
- G. Officers should wear their issued BWCs forward facing on their outermost garment, at or above the waist.
- H. Officers must document BWC non-use as follows:
  - 1. Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report. Supervisors shall review these reports and initiate any corrective action deemed necessary.
  - 2. If the failure to record is the result of an equipment malfunction, it must be documented in the incident report. The Supervisor should also be notified, and the BWC should be taken out of service to be repaired.
- I. The department will maintain the following records and documents relating to BWC use, which are classified as public data (in compliance with Minn. Stat. § 13.825, Subd. 5):
  - (a) The total number of BWCs owned or maintained by the agency;
  - (b) A daily record of the total number of BWCs actually deployed and used by officers;
  - (c) The total amount of recorded BWC data collected and maintained;
  - (d) The BWC policy and Records Retention Schedule.

## **450.5 GENERAL GUIDELINES FOR RECORDING**

### **450.5.1 MANDATORY RECORDING**

Understanding that officers encounter tense, uncertain, and rapidly evolving situations, officers must activate their BWC at their earliest opportunity and before arriving on scene when recording is required by this policy. The use of squad video does not replace the use of BWCs.

Activating a BWC early, before an officer arrives on scene, allows an officer to safely turn on the BWC before reacting to or dealing with the circumstances of a particular call, incident, investigation or event. Early activation also helps document important information from a view closer to that of the officer's perspective. Officers shall activate their BWCs when responding to all calls for service and during all law enforcement related encounters and activities, including but not limited to pursuits, stops of or officer initiated contacts with motorists or pedestrians, arrests, searches,

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suspect interviews and interrogations, custodial and non-custodial transports and during any police/citizen contact that becomes adversarial. However, officers do not need to activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in this policy.

Activated BWCs shall record the duration of the entire law enforcement related encounter and/or activity and shall only be deactivated at the conclusion of the encounter and/or to comply with prohibited recording.

If an officer is at a location or in any situation where an event occurs or develops where this policy mandates recording and their BWC is not already activated, the officer must activate the BWC as soon as activation is possible and safe.

#### 450.5.2 DISCRETIONARY RECORDING

This policy does not describe every possible situation where the BWC may be activated. Beyond the mandated scenarios described above, an officer may activate the BWC when they believe it should be activated based on their training, experience, and judgment, except when recording is prohibited under this policy. If an officer is involved in a situation and they are unsure if the activation is mandatory, discretionary or prohibited, they should activate the BWC.

Officers have discretion to record or not record general citizen contacts.

Officers responding to incidents involving bomb threats, suspected explosive devices, or confirmed improvised explosive devices (IEDs) may exercise discretion to deactivate their Body-Worn Cameras (BWCs) when there is a reasonable belief that continued operation of the device could pose a risk of triggering an explosive mechanism. Certain IED configurations may utilize electronic detonators or triggering systems that could be inadvertently activated by radio frequency emissions or other electronic signals produced by BWCs. When an officer has articulable reason to believe that the operation of a BWC may increase the risk of detonation, the officer is authorized to power off the BWC in the interest of public and officer safety. When feasible and safe to do so, officers shall verbally record on the BWC the reason for deactivation prior to powering off the device. If circumstances do not allow for a pre-deactivation statement, officers shall document the justification in a report or supplemental statement as soon as practical after the incident.

BWCs shall be reactivated as soon as the threat of detonation has been mitigated, or the officer determines that continued operation no longer presents a safety hazard.

#### 450.5.3 PROHIBITED RECORDING

BWCs shall not be used to make recordings:

- Of interactions solely among other department employees when not actively investigating or assigned to a call or incident.
- During nonwork-related activity.
- Within areas of a police facility restricted to personnel-only access, including roll call rooms, locker rooms, break rooms, and report rooms. BWCs should only record citizen

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contacts inside a police facility if relevant to an investigation or to comply with the Mandatory Recording situations described in this policy.

- When interacting with undercover officers or confidential informants, or persons providing information based on confidentiality, unless necessary for a law enforcement investigation or to comply with the Mandatory Recording situations described in this policy.
- During a work break.
- At any location where a reasonable expectation of privacy exists, such as a bathroom or locker room, unless necessary for a law enforcement investigation or to comply with the Mandatory Recording situations described in this policy.
- In patient care areas of a hospital, sexual assault treatment center, or other healthcare facility unless necessary for a law enforcement investigation or to comply with the Mandatory Recording situations described in this policy.

Officers who are aware they may have created a prohibited or unintentional recording must report that recording to their supervisor. The Police Video and Data Coordinator will manage this data accordingly.

#### **450.5.4 RECORDING NOTIFICATIONS**

Airport Police Department peace officers have no affirmative duty to inform people that a portable recording system is being operated or that the individuals are being recorded.

Minnesota law permits an individual to record any conversation in which one party to the conversation has given their permission (Minn. Stat. § 626A.02). Accordingly, members of the Department may 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.

Members shall not use BWCs to surreptitiously record another department member without a court order unless lawfully authorized by the Chief Law Enforcement Officer or the authorized designee.

#### **450.6 TRANSFERRING AND LABELING DATA**

- A. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from their camera to the storage location system by the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume responsibility for transferring the data from it.
- B. Officers must label BWC data files before transferring the files to storage. Labeling can be done at the time of video capture or prior to the end of shift. Officers should consult with a supervisor if in doubt as to the appropriate labeling.
- C. In addition, officers should flag each file as appropriate to indicate that it contains information about data subjects who may have rights under the MGDPA limiting disclosure of information about them (Minn. Stat. § 13.82, Subd. 17).

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- D. Task Force Officers who are working in that official capacity should label their videos as "Sensitive" to remain compliant with that agency's SOPs.

#### **450.7 ADMINISTERING ACCESS TO BWC DATA**

- A. **Data subjects.** Under Minnesota law (Minn. Stat. § 13.825), the following are considered data subjects for purposes of administering access to BWC data:
  - 1. Any person or entity whose image or voice is documented in the data.
  - 2. The officer who collected the data.
  - 3. Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording.
- B. **BWC data is presumptively private.** BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result:
  - 1. BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.
  - 2. Some BWC data is classified as confidential (see C. below).
  - 3. Some BWC data is classified as public (see D. below).
- C. **Confidential data.** BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the "private" classification listed above and the "public" classifications listed below.
- D. **Public data.** The following BWC data is public. However, if another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other classification. For instance, data that reveals protected identities under Minn. Stat. § 13.82, Subd. 17 (e.g., certain victims, witnesses, and others) should not be released even if it would otherwise fit into one of the public categories listed below:
  - 1. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
  - 2. Data that documents the use of force by a peace officer that results in substantial bodily harm.
  - 3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted. In addition, any data on undercover officers must be redacted.
  - 4. Data that documents the final disposition of a disciplinary action against a public employee.
- E. **Access to BWC data by non-employees.** Officers shall refer members of the media or public seeking access to BWC data to the Records Unit personnel or Chief Law Enforcement Officer, who shall process the request in accordance with the MGDPA and other governing laws. In particular:

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1. An individual shall be allowed to review recorded BWC data about themselves and other data subjects in the recording, but access shall not be granted:
    - (a) If the data was collected or created as part of an active investigation.
    - (b) To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82, Subd. 17.
  2. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording, with a charge based on the actual cost, upon request but subject to the following guidelines on redaction:
    - (a) Data on other individuals in the recording who have not consented to the release must be redacted.
    - (b) Data on other officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted.
    - (c) Data that would identify undercover officers must be redacted.
- F. **Access by peace officers and law enforcement employees.** No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes:
1. Officers may access and view stored BWC video only when there is a business need for doing so (i.e., preparing reports) including the need to defend against an allegation of misconduct or substandard performance. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes.
  2. Officers may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident. However, in most use of force incidents, officers need to complete their use of force documentation and then immediately sit down with the supervisor to watch the video. If there are any discrepancies between the officer's report and the video, the supervisor can provide an explanation in the supervisor's report. In deadly force incidents, after the officer gives his/her perceived version of events, the video can be watched during the officer's interview and any discrepancies can be addressed at that time.
  3. Agency personnel shall document their reasons for accessing stored BWC data at the time of each access.
  4. Any member who accesses or releases records without authorization may be subject to discipline (Minn. Stat. § 626.8473).
- G. **Other authorized disclosures of data.** Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, Subd. 15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of individuals whose identities are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting

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the audio, or playing the audio but not displaying video. Officers shall document these types of authorized disclosures in their report. In addition:

1. BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.
2. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

#### **450.8 DATA SECURITY SAFEGUARDS**

- A. Access to electronically archived BWC data shall be controlled by secure and individualized login credentials.
- B. Access to BWC data by use of Metropolitan Airports Commission (MAC) or personally owned and approved devices shall be managed in accordance with established MAC policy.
- C. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the Chief Law Enforcement Officer or designee.
- D. As required by Minn. Stat. § 13.825, Subd. 9, this agency shall obtain an independent biennial audit of its BWC program.

#### **450.9 AGENCY USE OF DATA**

- A. Supervisors will regularly review BWC usage by each officer to ensure compliance with this policy, and to identify any performance areas in which additional training or guidance is required.
- B. Supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.
- C. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- D. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

#### **450.10 DATA RETENTION**

- A. All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.
- B. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be retained for a minimum period of one year.

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- C. Data documenting a citizen complaint against an officer or employee must be retained for a minimum period of three years after the investigation and any resulting proceedings have been concluded.
- D. Certain kinds of BWC data must be retained for six years:
  - 1. Data that documents the use of force by a peace officer.
  - 2. Data documenting circumstances relating to an internal affairs investigation.
- E. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period. In general, data relating to investigations in which no charges have been brought should be retained until the applicable period of limitations for bringing a charge has expired; and data relating to cases that have been charged should be retained until the case is concluded and the period for bringing a further appeal has expired.
- F. Subject to Part G (below), all other BWC footage that is non-evidentiary, or becomes non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
- G. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new request is received.
- H. The department will post this policy, together with its Records Retention Schedule on the Public Safety Department website.
- I. Members shall not alter, erase, or destroy any recordings before the end of the applicable records retention period (Minn. Stat. § 626.8473).

#### **450.11 ACCOUNTABILITY**

Any member who accesses or releases recordings without authorization may be subject to discipline (see Standards of Conduct and the Protected Information policies) (Minn. Stat. § 626.8473).

#### **450.12 POLICE VIDEO AND DATA COORDINATOR**

The Chief Law Enforcement Officer or the authorized designee should designate a coordinator responsible for (Minn. Stat. § 626.8473; Minn. Stat. § 13.825):

- (a) Establish and maintain procedures for the security, storage, and maintenance of data and recordings.
  - 1. The coordinator will manage the use, access, and release of protected information to ensure that procedures comply with requirements of the Minnesota Government Data Practices Act (MGDPA) and other applicable laws (Minn. Stat. § 13.01 et seq.) (see the Protected Information and the Records Maintenance and Release policies).

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2. The coordinator will work with Supervisors to identify recordings that must be retained for a specific time frame under Minnesota law (e.g., firearm discharges, certain use of force incidents, formal complaints).
- (b) Establish and maintain procedures for accessing data and recordings.
    1. These procedures should include the process to obtain written authorization for access to non-public data by APD members and members of other governmental entities and agencies.
  - (c) Establish procedures for logging or auditing access.
  - (d) Establish and maintain procedures for transferring, downloading, tagging, or marking events.
  - (e) Work with auditors on the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
  - (f) Notify the Bureau of Criminal Apprehension (BCA) within ten days of obtaining new surveillance technology that expands the type or scope of surveillance capability of a portable recording system device beyond video or audio recording, a law enforcement agency must notify the Bureau of Criminal Apprehension that it has obtained the new surveillance technology. The notice must include a description of the technology and its surveillance capability and intended uses. The notices are accessible to the public and must be available on the bureau's website (Minn. Stat. § 13.825, Subd. 10).