

MADISON LAKE CITY POLICE DEPARTMENT

Policy & Procedure Manual

Subject: Body Worn Camera

Effective Date: 04/19/2023

Approved by: Chief Phil Wills MLPD

Purpose

The use of body-worn cameras (BWCs) in law enforcement is relatively new. The primary purpose of using BWCs is to capture evidence arising from police-citizen encounters. While this technology allows for the collection of valuable information, it opens up many questions about how to balance public demands for accountability and transparency with the privacy concerns of those being recorded. In deciding what to record, this policy also reflects a balance between the desire to establish exacting and detailed requirements and the reality that officers must attend to their primary duties and the safety of all concerned, often in circumstances that are tense, uncertain, and rapidly evolving.

Policy

It is the policy of this department to authorize and require the use of department issued BWCs as set forth below.

Scope

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of surreptitious recording devices in undercover operations or the use of squad-based (dash-cam) video recorders. The chief or chief's designee may supersede this policy by providing specific instructions for the use of BWCs to individual officers or providing specific instructions for the use of BWCs pertaining to certain events or classes of events, including but not limited to political rallies and demonstrations. The chief or chief's designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

Definitions

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

- A. MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- B. Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.
- C. Law enforcement-related information** 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.
- D. 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.

- E. 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 a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.
- F. 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 his or her own are deemed adversarial.
- G. 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 or administrative value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house 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.
- H. 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.

Use and Documentation

- A.** 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.
- B.** Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall check their issued BWCs at the beginning of each shift to make sure the devices are functioning properly and shall promptly report any malfunctions to the officer's supervisor.
- C.** Officers should wear their issued BWCs at the location on their body and in the manner specified in training.
- D.** Officers must document BWC use and nonuse as follows:
 - 1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report.
 - 2. 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.

General Guidelines for Recording

- A.** Officers shall activate their BWCs when anticipating that they will be involved in, become involved in, or witness other officers of this agency involved in a pursuit, Terry stop of a motorist or pedestrian, search, seizure, arrest, use of force, adversarial contact, and during other activities likely to yield information having evidentiary value. However, officers need not 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 the Use and Documentation guidelines, part (D)(2) (above).

- B.** Officers have discretion to record or not record general citizen contacts.
- C.** Officers have no affirmative duty to inform people that a BWC is being operated or that they are being recorded.
- D.** Once activated, the BWC should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The officer having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. Officers shall state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
- E.** Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.
- F.** Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.
- G.** Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.

Special Guidelines for Recording

Officers may, in the exercise of sound discretion, determine:

- A.** To use their BWC to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- B.** To use their BWC to take recorded statements from persons believed to be victims and witnesses of crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.
- C.** Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. Officers may activate their BWCs when dealing with individuals believed to be experiencing a mental health crisis or event. BWCs shall be activated as necessary to document any use of force and the basis therefor and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental health issue.
- D.** Officers may use their BWCs and squad-based audio/video systems to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident.

Downloading and Labeling Data

- A.** Each officer using a BWC is responsible for notifying the Chief of Video that video needs to be transferred. This will be accomplished by filling out a request for video download form and getting it to the Chief of Video. However, if the officer is involved in a shooting, in custody death, or other law enforcement activity resulting in death or great bodily harm, the Chief of Police shall take custody of the officer's BWC and assume responsibility for transferring the data from it.
1. **Evidence-criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.
 2. **Evidence-force:** Whether or not enforcement action was taken or an arrest resulted, the event involved the application of force by a law enforcement officer of this or another agency.
 3. **Evidence-property:** Whether or not enforcement action was taken or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property.
 4. **Evidence-administrative:** The incident involved an adversarial encounter.
 5. **Evidence-other:** The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.
 6. **Training:** The event was such that it may have value for training.
 7. **Unintentionally recorded footage:** See Definitions, part G. Officers labeling a file as such shall document the events or subject matter that was accidentally recorded on a form or in a manner specified by the department.
 8. **Not evidence:** The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts are not evidence.
- B.** In addition, officers shall flag each file as appropriate to indicate that it contains information about data subjects who may have rights under the MGDPA limiting public disclosure of information about them. These individuals include:
1. Victims and alleged victims of criminal sexual conduct.
 2. Victims of child abuse or neglect.
 3. Vulnerable adults who are victims of maltreatment.
 4. Undercover officers.
 5. Informants.
 6. When the video is clearly offensive to common sensitivities.
 7. Victims of and witnesses to crimes, if the victim or witness has requested not to be identified publicly.

8. Individuals who called 911, and services subscribers whose lines were used to place a call to the 911 system.
 9. Mandated reporters.
 10. Juvenile witnesses, if the nature of the event or activity justifies protecting the identity of the witness.
 11. Juveniles who are or may be delinquent or engaged in criminal acts.
 12. Individuals who make complaints about violations with respect to the use of real property.
 13. Officers and employees who are the subject of a complaint related to the events captured on video.
 14. Other individuals whose identities the officer believes may be legally protected from public disclosure.
- C. Labeling and flagging designations may be corrected or amended based on additional information.

Access to BWC Data

- A. Chief of Police and authorized designee responsible for uploading and disseminating all video to department Officers as requested.
- B. Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view BWC data.
- C. Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. 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.
- D. 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 limit these displays to protect against the incidental disclosure of individuals whose identities are not public.
- E. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency onto public and social media websites.
- F. Officers shall refer members of the media or public seeking access to BWC data to the Chief of Police who will process the request in accordance with the MGDPA and other governing laws. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.
- G. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

Agency Use of Data

- A.** Supervisors and other assigned personnel may access BWC data for the purpose of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.
- B.** Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.

Data Retention

- A.** Evidentiary data shall be retained for the period specified in the General Records Retention Schedule for Minnesota Cities. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable retention period.
- B.** Unintentionally recorded footage shall not be retained.
- C.** BWC footage that is classified as non-evidentiary, or becomes classified as non-evidentiary, shall be retained for a minimum of 90 days following the date of capture. If information comes to light indicating that non-evidentiary data has evidentiary value or value for training, it may be reclassified and retained for a longer period. Noncriminal/investigatory data may be deleted after 90 days.
- D.** The department shall maintain an inventory of BWC recordings.
- E.** Violations of this policy could result in disciplinary action in accordance with the city of Madison Lake handbook.