

Portable Audio/Video Recorders

424.1 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 administering the data that results.

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of squad-car based (dash cam) recording systems. The Director, or their designee, may supersede this policy by providing specific instructions for BWC use to individual officers, providing specific instructions pertaining to a particular event or classes of events, or provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details.

424.1.1 DEFINITIONS

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

Activation - Any process that causes BWC system to record audio or video data. Activation can only occur when the BWC is already powered on.

Adversarial - 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.

Classify - refers to an event that has been recorded and for which a predetermined retention period has been set.

Deactivation - any process that causes the BWC system to stop recording. Deactivation can be done manually or can occur accidentally

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 a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

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

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

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Official duties - means that the officer is on-duty, or working in an off-duty capacity for the City of Mankato, and performing authorized law enforcement services on behalf of this agency.

Records Retention Schedule - refers to the General Records Retention Schedule for Minnesota Cities.

Unintentionally recorded footage - a video recording that results from an officer's inadvertence 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 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.

424.2 POLICY

It is the policy of this department to authorize the use of department issued (BWCs) as set forth below, and to administer BWC data as provided by law. Sworn officers who have been issued BWCs shall use them consistent with this policy.

424.3 USE AND DOCUMENTATION

Uniformed officers who are working patrol, traffic enforcement, special details, or department authorized off-duty details must be equipped with a BWC unless permission has been granted by a supervisor to deviate from this policy. Officers working administrative assignments are not required to be equipped with a BWC but may elect to use a BWC pursuant to the needs of a specific investigation or job duty.

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. Officers shall not use their BWC to record non-work-related activity.

Officers who have been issued BWCs must operate and use them consistent with this policy. Officers must conduct a function test of their issued BWCs at the beginning of each shift to make sure the devices are operating properly. Officers noting a malfunction during testing or at any other time must promptly report the malfunction to the officer's supervisor. Supervisors should take prompt action to address malfunctions, assign spare equipment when necessary, and report malfunctions to appropriate staff.

Prior to utilizing BWCs, users shall complete an approved training course covering proper operation of assigned equipment and a review of this policy. Officers are required to wear their issued BWCs in the manner specified in training. BWCs must be worn in a forward-facing position near the midline of the torso on the front of the body.

Officers must document BWC use, and non-use as follows:

1. Whenever an officer makes a recording, the existence of the recording will be documented in an incident report. If no report is written, it should be documented in the records management system

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2. Whenever an officer fails to record an activity that is required to be recorded under this policy, or fails to record for the entire duration of the activity, the officer must document the circumstances and reasons for not recording in an incident report. If no incident report is written, it should be documented in the records management system. Supervisors shall review these reports and initiate any corrective action deemed necessary. If an activity was not recorded due to a supervisor directive, the circumstances shall be documented in the same manner.

The department will maintain the following records and documents relating to BWC use, which are classified as public data:

1. The total number of BWCs owned or maintained by the department
2. A daily record of the total number of BWCs deployed and used by officers
3. The total amount of recorded BWC data collected and maintained
4. This policy, together with the Records Retention Schedule

424.4 GENERAL GUIDELINES FOR RECORDING

Officers shall activate their BWCs when they anticipate participating in an activity likely to yield information having evidentiary value. Situations that qualify include, but are not limited to; a pursuit, Terry Stop of a motorist or pedestrian, search, seizure, arrest, use of force, or adversarial contact. However, officers are not required to activate their cameras when it would be unsafe, impossible, or impractical to do so. Such instances of not recording when otherwise required must be documented as specified in the Use and Documentation section of this policy.

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

Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded. However, if asked, officers shall advise citizens they are being recorded.

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 may direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. If the recording is discontinued or muted while an investigation, response, or incident is ongoing, 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.

Officers shall be sensitive to the dignity of members of the public being recorded and exercise sound discretion to respect privacy by discontinuing recording when it reasonably appears

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that such privacy outweighs any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using these same criteria. Recording should resume when privacy is no longer at issue unless no longer required by another section of this policy. Officers must state the reason on camera before deactivating their BWC and specify the circumstances in their report.

Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of 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, in restrooms, during breaks, or during other private conversations or within areas of the Public Safety Center restricted to personnel-only unless recording is authorized as part of an administrative or criminal investigation.

424.4.1 SPECIAL ASSIGNMENTS

Personnel assigned to covert/undercover assignments do not need to wear their BWC during operations in which displaying or indicating their status as an officer would compromise the operation. Officers serving in a special assignment role must make a reasonable effort to have their BWCs with them throughout their course of duty.

Officers assigned to the Detective Division as Detectives shall activate their BWCs during the following situations:

1. When at an active scene where recording is likely to yield information having evidentiary value.
2. When executing a search warrant outside of a controlled facility or environment until the scene is secured or it becomes apparent that additional recording is unlikely to capture information having evidentiary value. (e.g., Detectives do not need to activate their BWC when executing a financial records warrant at a financial institution, but would at all residences and other similar environments.)
3. During the interview of a suspect when other means of recording are not available.

Officers serving as an agent of the MRVDTF shall activate their BWCs during the following situations:

1. Prior to any enforcement action, when feasible, without jeopardizing agent safety (e.g., execution of search warrants, reasonably anticipated pre-planned events, assisting on an active call for service, etc.)

Officers actively serving as a member of the MRVTRT in response to a team activation or callout, shall activate their BWCs during the following instances:

1. Upon arrival to the outer perimeter of the scene and throughout the operation until the location is secured (e.g., a TRT assisted search or arrest warrant). For extended tactical operations, recording will begin when the officer is deployed to the scene and should capture

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any negotiations and other relevant activity when possible. Recording should continue until the incident is resolved or the member is relieved from the active scene and transitioned to a standby role.

Officers assigned as an SRO shall follow the General and Special Guidelines for recording.

424.4.2 SPECIAL GUIDELINES FOR RECORDING

Officers may, in the exercise of sound discretion, determine to use their BWCs 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. Officers may also use their BWCs, or Axon Capture, to take recorded statements from persons believed to be victims of and witnesses to crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, BWCs must be activated as necessary to document any use of force and the basis for it, 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.

Officers shall 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, mental health care facilities, shelters, advocacy centers, 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.

Officers should not activate their BWCs during court appearances, while waiting for court appearances in the Justice Center, or in Judge's chambers. Officers shall activate their BWCs in the courtrooms or Justice Center if they anticipate that they will be involved in or become involved in a pursuit, search, seizure, arrest, use of force, adversarial contact, and during other activities likely to yield information having evidentiary value, or with the express permission of the presiding judge.

424.5 DOWNLOADING AND CLASSIFYING DATA

Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from their BWC to Evidence.com by the end of their 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 shall take custody of the officer's BWC and assume responsibility for transferring the data.

Officers shall classify the BWC data files at the time of capture or transfer to storage and should consult with a supervisor if in doubt as to the appropriate classification. If multiple classifications apply to the BWC data, officers may classify the recording with multiple classification categories.

Classifications and retention periods for BWC data are as follows:

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- 1. Evidence:** The recording has evidentiary value with respect to an actual or suspected criminal incident or involved an adversarial encounter that could result in a complaint against an officer. (Retention duration: 30 years)
- 2. Non-enforcement contact:** The recording does not fit into any other category and has no apparent evidentiary value including recordings of general citizen contacts. (Retention duration: 90 days)
- 3. Non-traffic citation, arrest, LOT:** The recording involves enforcement that ended in a citation, physical arrest, or request to prosecutors for criminal charges. (Retention duration: 30 years)
- 4. Officer injury:** The recording involves an officer sustaining an injury during a recorded incident. (Retention duration: 3 years)
- 5. Pending review:** The recording needs additional review by a supervisor prior to classification. (Retention duration: Indefinite until classified otherwise)
- 6. Test/error:** Equipment testing or unintentional recordings that have no evidentiary value. (Retention duration: 90 days)
- 7. Traffic citation:** Traffic related contacts when a citation is issued. (Retention duration: 180 days)
- 8. Transport:** Custodial and non-custodial transports not categorized as "Arrest or Use of Force". (Retention duration: 90 days)
- 9. Use of Force:** The recording involves the use of force by an officer involved in the recorded incident. (Retention duration: 7 years)

424.6 ADMINISTERING ACCESS TO BWC DATA

Under Minnesota law, 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.

BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result, BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.

BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the private and/or public classifications.

The following BWC data is public:

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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.
5. Data that may aid in the law enforcement process, promote public safety, or dispel widespread rumor or unrest.

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 above.

424.6.1 ACCESS TO BWC DATA BY NON-EMPLOYEES

Officers shall refer members of the media or public seeking access to BWC data to the Mankato Department of Public Safety Records Department, who shall process the request in accordance with the MGDPA and other governing laws. In particular:

1. An individual shall be provided with access and allowed to review recorded BWC data about him or herself and other data subjects in the recording, but access shall not be granted if the data was collected or created as part of an active investigation. Access shall not be granted 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 upon request, subject to redaction. Data on other individuals in the recording who do not consent to the release, or data that would identify undercover officers, must be redacted. 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.

424.6.2 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. 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

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which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident.

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 to public and social media websites. 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.

424.6.3 DATA SECURITY SAFEGUARDS

Data collected via BWC will be stored on a secure system called "Evidence.com" which is cloud-based storage securely maintained by Axon. BWC data will be coded appropriately into data types and stored according to retention lengths outlined in this policy. Each officer will have a secure account assigned to them through Evidence.com to manage data they have collected. The Director of Public Safety, and their designee(s), will have administrator capabilities for the purpose of managing and reviewing data. Prosecuting law attorneys will also be granted secure access to Evidence.com for the purposes of viewing specific evidentiary data necessary for prosecution and discovery.

Personally owned devices, including but not limited to computers and mobile devices, shall not be used to access, or view agency BWC data.

The video storage database shall be administered in a manner that prevents users from editing, altering, or erasing any BWC recording unless expressly authorized by the Director of Public Safety or their designee.

As required by Minn. Stat. 13.825, subd. 9, as may be amended from time to time, this agency will obtain an independent biennial audit of its BWC program.

424.6.4 AGENCY USE OF DATA

Supervisors shall review BWC usage by each officer to whom a BWC is issued or available for use, to ensure compliance with this policy. In addition, 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. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.

Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. All requests for BWC footage for training purposes should be made to the Director of Public Safety or their designee. Officer objections to preserving or using certain footage for training will be considered on a case by case basis. Police training officers (PTOs) may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

Officers and supervisors should enter notes in Evidence.com documenting why digital evidence is being accessed (e.g., "Report Writing", "Court prep", "Pursuit review", "Routine audit", "Case investigation", "Training", etc.)

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424.6.5 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 shall seek supervisory approval prior to displaying video to witnesses and should generally limit these displays in order to protect against the incidental disclosure of individual identities that are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video.

In addition, 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. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

424.6.6 DATA RETENTION

All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data. 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 maintained for a minimum period of one (1) year.

Certain kinds of BWC data must be retained for seven (7) years:

- Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require supervisory review
- Data documenting circumstances that have given rise to a formal complaint against an officer

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. All other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.

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 written request is received.

The department shall maintain an inventory of BWC recordings having evidentiary value.

The department will post this policy, together with a link to its Records Retention Schedule, on its website.

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424.7 COMPLIANCE

Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. 13.09.

The Director of Public Safety, or their designee, shall periodically review the efficacy of the body worn camera program including review of this policy to assure it remains compliant with relevant laws and best practices.