



Edina Police Operations Manual

Policy Number
775.00

Subject:

Body Worn Cameras – **DRAFT POLICY**

Effective Date
TBD

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11/13/2019

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PURPOSE

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.

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. Officers who have been issued BWCs shall use them consistent with this policy.

775.01

SCOPE

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

775.02

USE AND DOCUMENTATION

- A. Uniformed officers who are working patrol, traffic enforcement, special details, or department authorized off-duty employment shall use a BWC unless permission has been granted by a supervisor to deviate from this policy. Plain clothes officers and/or officers working administrative assignments are not required to use a BWC but may elect to use a BWC pursuant to the needs of a specific investigation or job duty or when directed by a supervisor.
- B. 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.
- C. Officers shall conduct a function test of their issued BWCs at the beginning of each shift. Officers noting a malfunction during testing or at any other time should 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 using the I.T. Help Desk.
- D. Prior to utilizing BWCs users shall complete an approved training course covering proper operation of assigned equipment and a review of this policy. Officers shall wear their issued BWCs in the manner specified in training.

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- E. Whenever an officer makes a recording it shall be documented in the incident report, or if no report is written, in the CAD event.
- F. 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 reasons for not recording.
- G. 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.

775.03

GENERAL GUIDELINES FOR RECORDING

- A. Officers shall activate their BWCs when anticipating that they will be involved in or become 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. Such instances of not recording when otherwise required must be documented.
- B. 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.
- C. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals 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 may direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. If the recording is discontinued while an investigation, response or incident is ongoing, officers should 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.

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- E. Officers should 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 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 should state the reason on camera before deactivating their BWC and specify the circumstances in their report.
- F. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.
- G. Officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as before or after shift time, in locker rooms or restrooms, during breaks, during other private conversations or within areas of the police department restricted to personnel-only unless recording is authorized as part of an administrative or criminal investigation.

775.04**SPECIAL GUIDELINES FOR RECORDING**

- A. Officers may 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.
- B. 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 shall 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.
- C. Officers should use their BWC to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health facilities and other agencies detention facilities, but otherwise should not record inside these facilities unless necessary to document criminal activity, use of force or an adversarial encounter.

775.05**DOWNLOADING AND LABELING DATA**

- A. Each officer using a BWC is responsible for assuring the transfer of the data from their BWC to the video storage server by the end of the 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.

- B. Officers should label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling.
1. **Traffic / No Citation:** Traffic related contacts that do not result in the issuance of a citation. (*90 days minimum retention*)
 2. **Traffic Citation:** Traffic related contacts when a citation is issued. (*1 year minimum retention*)
 3. **Arrest or Use of Force:** Incidents involving an arrest and/or the use of force. (*3 years minimum retention*)
 4. **Transport:** Custodial and non-custodial transports not categorized as "Arrest or Use of Force". (*180 days minimum retention*)
 5. **Misc. Evidence:** The recording does not fit into a foregoing category and the information has evidentiary value with respect to an actual or suspected criminal incident or involved an adversarial encounter that could result in a complaint against the officer. (*1 year minimum retention*)
 6. **Misc. Not Evidence:** The recording does not fit into a foregoing category and has no apparent evidentiary value including recordings of general citizen contacts. (*90 days minimum retention*)
 7. **Test / Error:** Equipment testing and unintentional recordings that have no evidentiary value. (*90 days minimum retention*)
- C. Labeling designations may be corrected or amended based on additional information.

775.06**AGENCY USE OF DATA**

- A. Supervisors shall review BWC usage by each officer to ensure compliance with this policy.
- B. 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.
- C. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

775.07**DATA SECURITY**

- A. BWC data will be stored on file servers managed by LOGIS who will assure the security of stored data and provide reasonable backup procedures to protect the data in accordance with their policies and procedures.
- B. Personally owned devices, including but not limited to computers and mobile devices, shall not be used to access or view agency BWC data.
- C. 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 chief or the chief's designee.
- D. As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program.

775.08**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 maintained for a minimum period of one year.
- C. Certain kinds of BWC data must be retained for six years:
 - 1. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require supervisory review.
 - 2. Data documenting circumstances that have given rise to a formal complaint against an officer.
- D. Other data having evidentiary value shall be retained for the period specified in the General Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.
- E. 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.
- F. 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.

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A. **Data subjects.** 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.

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:

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 if practicable. 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.

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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.

- E. Access to BWC data by non-employees.** Officers shall refer members of the media or public seeking access to BWC data to the data practices designee, who shall process the request in accordance with the MGDPA and other governing laws. In particular:
1. An individual shall be allowed to review recorded BWC data about him- or herself 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 upon request, but subject to the following guidelines on redaction:
 - a. Data on other individuals in the recording who do not consent to the release must be redacted.
 - b. Data that would identify undercover officers must be redacted.
 - c. 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.
 - d. Data subject must submit an official request and pay any associated fees from the posted fee schedule.
- 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, 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.

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2. Access by agency personnel shall be logged automatically within the BWC video storage database at the time of each access. 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.

3. 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. 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 the audio or playing the audio but not displaying video. 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.

775.10**COMPLIANCE**

- A. 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.
- B. The chief or chief's 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.