



# **PINE COUNTY**

## **BOARD OF COMMISSIONERS**

### **SPECIAL MEETING-COMMITTEE OF THE WHOLE**

District 1	Commissioner Hallan
District 2	Commissioner Mohr
District 3	Commissioner Chaffee
District 4	Commissioner Mikrot
District 5	Commissioner Ludwig

**April 23, 2019 – 10:30 a.m.**  
**Pine County Courthouse Board Room**  
**635 Northridge Dr.**  
**Pine City, Minnesota**

#### **AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Approve Agenda
4. Discussion of Squad and Body-Worn Cameras for the Pine County Sheriff's Office
5. Adjourn



# PINE COUNTY

## Administrator's Office

635 Northridge Drive NW  
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Pine City, MN 55063  
1-800-450-7463 Ext. 1620  
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### Commissioners

Steve Hallan – Dist. 1  
Josh Mohr – Dist. 2  
Steve Chaffee – Dist. 3  
John Mikrot Jr. – Dist. 4  
Matt Ludwig – Dist. 5

### County Administrator

David J. Minke

TO: Pine County Commissioners  
FROM: David Minke, County Administrator  
DATE: April 23, 2019  
SUBJECT: Sheriff's Office Squad and Body Cameras

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On May 31, 2016, Governor Dayton signed “the Body Worn Camera Bill” into law. The law amended portions of Minnesota Statutes, Section 13.82 and created a new section, 13.825. The new section outlines the use of “portable recording systems” for law enforcement agencies in Minnesota.

Since the law was enacted, many law enforcement agencies have incorporated portable recording devices (Body Worn Camera Systems-BWC) into their regular equipment. Sheriff Nelson has been exploring portable recording options for Pine County and has provide the attached information for your review/consideration.

If commissioners are interested in pursuing BWC's, the purchase would be considered as part of the 2020 budget process with implementation in 2020. For planning purposes, this is a \$200,000+ project.

The statute requires three opportunities for public input into the process.

- (1) The “agency” (sheriff's office) must accept public comments (electronically or by mail) before purchasing or implementing the equipment;
- (2) The governing body (county board) must provide an opportunity for public comments at a regular meeting; and
- (3) The agency (sheriff's office) must accept public comments (as #1 above) in developing and adopting a written policy.

The purpose of this meeting is to review and discuss information on BWC systems with the sheriff and for commissioners to provide some direction as to the interest in proceeding. Although the focus of the discussion to this point has been on BWC's, those systems typically include the mobile device carried by the officer and an in-squad camera.

If there is interest in proceeding, the sheriff will continue to evaluate equipment, develop bid specifications, and work on policy development. The Department of Justice has a grant program with a June 5, 2019 deadline. If there is interest in proceeding with the BWCs, the county can explore this grant opportunity.

# Body-Worn Cameras

We are requesting consideration of squad/body camera packages.

## Why?

**Evidence, evidence, evidence!** In-car cameras have been a standard in law enforcement for many years. The cameras provide valuable evidence for all types of investigations from driving conduct to homicides. Mille Lacs Tribal Police video helped with a homicide case because they had video of a traffic stop. Pine County has none; the old system failed and was never replaced.

**Cost.** The cost to purchase as a package reduces the cost to upgrade later. The body camera will work as the microphone for the in-car system, reducing need to purchase separately. (\$600per savings)

**Subject Compliance/Officer Safety.** Studies suggest that people behave better when they know they are being recorded.

**Deputy Accountability.** Deputies held to standard of conduct.

**Public Perception.** We can control the narrative of an incident and provide the public answers as appropriate -- there will be video!  
Caveat- video/audio is one piece of evidence and should not be assumed to be the end of questions as it may record things that the deputy did not see or hear.

## Cost

One quote from *WatchGuard* for 30 car and body camera package: \$205,175.  
Several agencies around us use Watchguard and speak highly of them.

Other options include Motorola, Axon(Taser), Panasonic- waiting for approval to expand the research

The system as priced includes forward panoramic camera, rear transport facing camera, body camera, hard drive (96 hours of recording), three WiFi access points (for three offices), wired transfer stations, training

Installation ? – waiting for quote

IT?- Ryan?

Warranty? – Depending on system unknown cost

### *Additional considerations -*

- Body cameras trigger additional policy, reporting, auditing and data concerns not required by squad cameras
- Statutes §626.8473 and §13.825
  - §626.8473 - Policy and Public Comment
    - ❖ Included policy from Sherburne and Isanti Counties, both use Lexipol as do we. Follows model policies as recommended.
    - ❖ Public comments required before purchase or implementation, public comment at regular board meeting, allow public comment when developing policy.
  - §13.825 - Data
    - ❖ Covered in model policy
    - ❖ Generally considered private data

Exceptions include; discharge of firearm or use of force with substantial bodily harm, subject requests data made public, public personnel data, court order

Exception to the exception; active criminal investigative data, consent from all parties or redaction, protected victims or witnesses
    - ❖ Retention

90 days unless saved for evidence then treated like other evidence and generally 90 days for appeal period,

1 year if discharge of firearm or force resulting in substantial bodily harm or formal complaint

If requested by data subject up to 180 days (can be extended)

We can keep longer – training etc.

Redaction- system available for redaction – cost unknown

Required to maintain public data of number of body cameras owned or maintained, a daily record of cameras deployed and used, total amount of camera data collected and maintained, the policy and retention schedule

Biennial audit- up to Sheriff's Office to arrange an independent audit of policy, data classification, retention etc. (estimated cost \$2000) county board can suspend use of cameras and require additional audits

- Practical Applications (including input from Isanti County Sheriff and Braham Police Chief)
  - No increase in data requests, have not had to redact any footage yet
  - Very little input from public at any step in the process, mostly supportive
  - Minimal increase in evidence processing – automatic download and then on a shared drive, raw footage and snipped copy
  - According to a defense attorney there are more contested hearings in Pine because of lack of video
  - Generally accepted by officers, has exonerated and provided evidence against

### *Use of system- Watchguard*

- Activated by lights, user, or other settings such as speed, hard braking, hard acceleration etc. we can setup
- Can be turned off per policy
- Deputy assigns case number and type of recording-assigns data type
- Downloads to system automatically when hits Wifi or put in charging cradle in office
- Body camera will sync with any squad, multiple body cameras can sync with one squad
- Squad will activate body and body will activate squad
- 96 hours recorded on hard drive
- System separates body from squad video

Questions?

## Body-Worn Cameras, LMC Model Policy

League models are thoughtfully developed by our staff for a city's consideration. Models should be customized as appropriate for an individual city's circumstances in consultation with the city's attorney. Helpful background information on this model may be found in ["Use of Body-Worn Cameras."](#)



**This icon marks places where the city must customize the model. They offer additional provisions, optional language, or comments for your consideration. The icon, and language you do not wish to include, should be deleted from this model before use. Make other changes, as needed, to customize the model for your city.**

### City of \_\_\_\_\_, Minnesota Use of Body-Worn Cameras Policy



Where optional provisions are offered you must choose one of the options, but choosing "option 1," for example, does not require you to choose "option 1" at every choice point.

*Red typeface* indicates that the language is included in response to a statutory mandate for guidance on that particular topic. While this language is recommended, agencies may certainly have other options for addressing mandatory policy elements. Change all typeface to black when creating your policy.

*[Italic brackets]* Text marked this way is a placeholder for agency-specific language.

### 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. 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.



The reference to tense and uncertain circumstances is derived from the U.S. Supreme Court's decision in [Graham v. Connor, 490 U.S. 386, 397 \(1989\)](#).

### 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.

### 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, or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. The chief or 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.



*Members of the model policy working group expressed that the policy should: (1) allow for the issuance of special instructions on BWC use to officers deemed to be Giglio-impaired; and (2) ensure that discretion exists to override normal recording guidelines for events where their use might be perceived as a form of political or viewpoint-based surveillance. In addition, members identified a concern that the “general” guidelines for BWC use could be poorly suited to the activities performed by court bailiffs, and that agencies should therefore have express authority to depart from them for special assignments and duties.*

## 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.



*County agencies will need to modify the policy to meet their own record retention schedule.*

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.



*“[R]elated civil or administrative proceeding” refers, for example, to implied consent or forfeiture actions arising from an encounter or arrest. The working group sought to clarify that the policy does not obligate officers to collect BWC data solely for use in third-party tort litigation.*

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.



*This definition is used to identify conflict situations, since they may evolve into more consequential matters or give rise to complaints against officers. Later provisions in this policy require officers to record adversarial encounters. Some working group members disfavored the term “adversarial,” and agencies may wish to consider other terminology better suited to their communities.*

- 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 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 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 shall promptly report the malfunction to the officer’s supervisor and shall document the report in writing. Supervisors shall take prompt action to address malfunctions and document the steps taken in writing.**



*Under Minn. Stat. § 626.8473, subd. 3(b)(2)-(3), policies must contain procedures for identifying and addressing malfunctions, including procedures for officers to test the functioning of their equipment. The actual steps to be used for function testing will likely vary based on the systems and technologies in place. Agencies should consider incorporating device-specific protocols for function testing into this policy. Satisfactory documentation of malfunctions and steps taken to address them could include emails, notes, or memoranda that the agency maintains as part of its BWC program records.*

- 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 non-use as follows:





*Agencies may need to conform the requirements and terminology of parts D (1) and (2) to their records management system or existing business practices. These provisions are recommended to assure that agencies document and maintain information about: (1) recordings, so that existing ones can be located, linked to a particular event, and disclosed by the prosecution as may be required by criminal discovery obligations; and (2) instances of non-recording, when it would be reasonable to expect BWC footage to exist in the circumstances.*

1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report or [CAD record/other documentation of the event].
  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 or [CAD record/other documentation of the event]. Supervisors shall review these reports and initiate any corrective action deemed necessary.
- E. 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 agency;
  2. A daily record of the total number of BWCs actually deployed and used by officers and, if applicable, the precincts in which they were used;
  3. The total amount of recorded BWC data collected and maintained; and
  4. This policy, together with the Records Retention Schedule.

## General Guidelines for Recording

### Choose one:

- A. [Option 1] 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, Terry stops of motorists or pedestrians, arrests, searches, suspect interviews and interrogations, and during any police/citizen contacts that becomes adversarial. 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).



*See LMC Information Memo, “[Use of Body-Worn Cameras](#),” Section IV, Deciding what to record. Option 1 requires the recording of all responses to calls for service and law enforcement-related activities.*

Or,

- A. **Option 2** 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).



*Option 2 more narrowly defines the class of events to be recorded. As compared with Option 1, this language: (1) eliminates the requirement of recording all responses to calls for service; (2) continues to require the recording of contacts and events having constitutional dimensions and those likely to result in complaints against officers and agencies; and (3) leaves it to officers to identify other circumstances “likely to yield information having evidentiary value.”*

- 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 the individuals are being recorded.



*Some commentators suggest that an announcement that BWCs are being used might have a civilizing effect in the field, and advocate telling people they are being recorded. However, the working group believed that an announcement requirement would distract officers from their duties and could become a debating point during tense enforcement encounters.*

- 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. If the recording is discontinued 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.



*A statement on camera such as, “Everything has settled down and the action appears to be over” should often suffice as a statement of reasons for stopping to record.*

- E. Officers shall not intentionally block the BWC’s audio or visual recording functionality to defeat the purposes of this policy.



*This provision is to be read in conjunction with the statement of “Purpose” set forth above: “The primary purpose of using BWCs is to capture evidence arising from police-citizen encounters.” The working group considered a variety of scenarios in which it would be appropriate for officers to block the recording functionality of their BWCs, such as to avoid capturing irrelevant images of an undressed bystander within a private home; images of a mobile computer screen displaying private or confidential data; or audio of officers*

*conferring about an arrest decision or tactical situation. Momentary blocking may be administratively preferable to turning the camera off and back on, since doing so would result in multiple data files that would each need to be processed and administered.*

- 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.

## Special Guidelines for Recording

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

- A. 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.



*This provision is included to ensure that officers are clearly vested with discretion to use their BWCs to capture information having evidentiary value.*

- B. To use their BWCs 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.

In addition,

- C. 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.



*The language in parts B and C is for use with Option 2 under General guidelines for recording. This language is unnecessary and confusing for agencies choosing Option 1, since Option 1 already requires the recording of all responses to calls for service and all law enforcement-related encounters and activities.*

- D. Officers *[shall]* *[should]* use their *[BWCs]* *[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.



*Agencies should consider recording all transports of persons in custody as a safeguard against liability and to document any incriminating statements. The best means of accomplishing this may depend on the technologies the agency is using. While squad-based audio/video systems with rear-facing cameras may be better suited for recording a prisoner's behavior during transport, the officer's BWC may capture more of the officer's interaction with the prisoner at the time he or she is removed from the car and transferred to the custody of another.*

## Downloading and Labeling Data

- A. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to [specify data storage location] 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.



*Agencies will need to conform this language to their own technologies and business practices. The central idea is that the responsibility for handling daily transfers of routine BWC data rests with the individual officer unless the process is automated. However, when the officer is involved in a significant event that will result in the agency immediately initiating an investigation, then someone else (an appropriate supervisor or investigator) should take custody of the involved officer's BWC and take care of transferring the data. Doing so will safeguard the integrity of the evidence and protect the officer against allegations of mishandling evidence.*

- B. Officers shall 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. [Include any technology-specific instructions for this process; if metadata is not being stored, then the information could be documented in a video log or other record.] Officers should assign as many of the following labels as are applicable to each file:




*See Section V-A, Labeling data for retention purposes, in Information Memo, "[Use of Body-Worn Cameras](#)."*

1. **Evidence—criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.




*The Records Retention Schedule for Minnesota Cities provides that retention periods for cases that have been charged are based on the status of court proceedings. (Code POL 05840.) For uncharged offenses, retention is seven years or permanent in the case of homicides (Code POL 03300 for adults; POL 03400 for juveniles). Counties will need to consult their own records retention schedule for guidance.*


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.

 *These recordings must be maintained for six years regardless of the disposition of any related criminal case. (Code POL 05920.) Some working group members expressed a desire for use of a term different than “force” to describe this category. Agencies are free to adopt other terminology as they deem appropriate. Counties will need to consult their own records retention schedule for guidance.*


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.

 *Evidence/property logs are subject to a one-year minimal retention period. (Code POL 03740.) Counties will need to consult their own records retention schedule for guidance.*


4. **Evidence—administrative:** The incident involved an adversarial encounter or resulted in a complaint against the officer.

 *The definition of “adversarial encounter” is intended to trigger the recording of interactions thought likely to result in complaints against an officer or the agency. Video that turns out to have evidentiary value in any internal investigation is subject to a six-year retention period. (Code POL 05880.) A shorter retention period may be utilized if no complaint or investigation arises. Counties will need to consult their own records retention schedule for guidance.*


5. **Evidence—other:** The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.

 *Retention will depend on the reason stated for maintaining the data. Counties will need to consult their own records retention schedule for guidance.*

6. **Training:** The event was such that it may have value for training.

 *No minimal retention period exists. Counties will need to consult their own records retention schedule for guidance.*

7. **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 and unintentionally recorded footage are not evidence.

 *Data not identified as having evidentiary value is subject to a 90-day retention period under Minn. Stat. § 13.825, subd. 3(a).*

- C. 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 disclosure of information about them. These individuals include:



*This provision assumes that the software being utilized will allow flagging. See Section V-B, Data access issues and flagging, in LMC Information Memo, "[Use of Body-Worn Cameras](#)."*

1. Victims and alleged victims of criminal sexual conduct and sex trafficking.
  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.
- D. Labeling and flagging designations may be corrected or amended based on additional information.

### **Administering Access to BWC Data:**

- 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.




*The “if practicable” language is noted as optional but recommended because two sections of the law are in disagreement as to the privacy protections given to data subjects who have not consented to the release of data about themselves. Minn. Stat. §13.825, subd. 2(a)(2) provides that when a data subject requests that data be made available to the public, the agency must first, “if practicable,” redact data on all other non-officer subjects who have not consented to the public release. However, under subdivision 4(b) of the same statute, there is no “if practicable” qualification on the obligation to redact data on non-consenting data subjects when providing a requestor with a copy of the data. For the sake of affording consistent protection to non-consenting data subjects, agencies may wish to redact information about them in all cases.*

4. Data that documents the final disposition of a disciplinary action against a public employee.



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 responsible authority/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.  
 *See above note at section D(3) on public data.*
  - 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.

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:

**Choose one:**

1. **[Option 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.





See Information Memo, "[Use of Body-Worn Cameras](#)", Section V-C, Officer access to video and critical incidents.

Or,

1. **[Option 2]** 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. Except as provided in the critical incident response policy, 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.
2. Agency personnel shall document their reasons for accessing stored BWC data *[in the manner provided within the database] [or, specify manner of documentation]* 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.



*The documentation requirements in parts F(2) and G(1) are intended to foster accountability with regard to the limitations on access to and dissemination of BWC data applicable to law enforcement employees and to aid the agency in achieving favorable audit results.*

## Data Security Safeguards

**A.** *[Specify data security safeguards to be used in your agency and in connection with the particular BWC technologies being employed, including any procedures for making backup copies of the data.]*

Choose one:

- B. [Option 1] Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view agency BWC data.

Or,

- B. [Option 2] Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy.
- C. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise 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.

## Agency Use of Data

- A. At least once a month, supervisors will randomly 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.]



See Information Memo, "[Use of Body-Worn Cameras](#)", Section V-D, Supervisory review, for policy considerations pertaining to supervisory review of data for performance assessment.

- 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. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.



This language is based on the Peace Officer Discipline Procedures Act, Minn. Stat. § 626.89, subd. 10.

- 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.

## 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 a use of force report or supervisory review.
  - 2. Data documenting circumstances that have given rise to a formal complaint against an officer.



*Minn. Stat. § 13.825, subd. 3(b) provides for the data referenced in Parts C(1) and C(2) to be maintained for a minimum of one year and then destroyed according to the agency's retention schedule. However, the General Records Retention Schedule for Minnesota Cities establishes six-year retention periods for force incidents where a supervisory review is completed (Code POL 05929), and also for data that has evidentiary value in any internal investigation. (Code POL 05880.) Counties will need to consult their own records retention schedule for guidance.*

- D. 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.



*County agencies will need to consult their own records retention schedule for guidance.*

- E. Subject to Part F (below), 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.
- G. The department shall maintain an inventory of BWC recordings having evidentiary value.



*The [General Records Retention Schedule for Minnesota Cities](#) indicates that agencies shall permanently maintain an inventory of evidentiary audio and video recordings. (POL 05810.) Counties will need to consult their own records retention schedule for guidance.*

- H. The department will post this policy, together with *[a link to]* its Records Retention Schedule, on its website.

### **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.

- **Frequently Asked Questions**

***Do the same classifications and requirements in the new body camera law apply to other video that law enforcement agencies may maintain, such as squad camera video?***

No. the new body cam data law applies only to data recorded by a “portable recording system,” defined as: “a device worn by a peace officer that is capable of both video and audio recording of the officer’s activities and interactions with others or collecting digital multimedia evidence as part of an investigation.”

***Does the public comment requirement for an agency purchasing or implementing a portable recording system apply to an agency that already has systems in place? If an agency renews a contract or switches vendors would this language apply?***

Generally, a new law will not have a retroactive effect unless the legislature specifically requires it in the session law. There is not a retroactive effect for the public comment provisions, so the public comment language will apply only to agencies that have yet to purchase body cameras or implement a program.

However, because the language reads “...purchases or implements...” if an agency decides to purchase all new body cameras from a completely new vendor (as opposed to just renewing a contract), it appears that the public comment language would apply. New purchases of this size also likely require governing body approval and discussion at an open meeting. A body could include the public comment period at the same open meeting.

***The law states that the identity and activities of an on-duty officer engaged in law enforcement activities may not be redacted from a body cam video. Does this include undercover officers?***

No. The law specifically states that undercover officers must be redacted in any body cam videos provided to a data subject or the public.

***Are officers allowed to view body cam video prior to writing an incident report?***

It depends. A provision requiring law enforcement agencies to allow officers to view video prior to writing a report did not make it into the final version of the law. Because the law neither requires nor prohibits it, agencies can individually decide whether to allow this review. Additionally, agencies might consider including this decision in their written policy.

***Must an officer request an individual’s consent to record prior to entering into a private home?***

It depends. The law does not require consent prior to recording in a private home. However, the law enforcement agency’s required written policy must include circumstances when a data subject must be given notice of a recording. The policy must

also include circumstances when recording is mandatory, prohibited, or at the discretion of the officer and circumstances when a recording may be ended while an investigation, response, or incident is ongoing.

***As a data subject, can I have access to a body cam video where I appear in the video when the criminal investigation is inactive?***

Yes. When an investigation is inactive, an individual whose image or voice appears in a body cam video (a data subject) can view the unredacted video, including access to other individuals and peace officers who appear in the video.

Data subjects can also request a copy of a body cam video in which they appear, or request that the video be made accessible to the public, as long as other data subjects (not including on-duty peace officers engaged in an investigation or response) give consent or are redacted from the video.

A law enforcement agency must always redact undercover officers.

***If I request to see body cam data and my request is denied, what can I do?***

The new law sets out a process in section 13.825, subd. 2(d) that allows any person to challenge a determination about body cam data access. The court may order that all or part of the data be released to the public or to the person bringing an action.

A requester can always also contact our office for any data request assistance.

Information taken from the Minnesota Department of Administration Website. Retrieved 4/19/19

<https://mn.gov/admin/data-practices/data/types/body-camera/>

### **703.1 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 resulting data. Compliance with these guidelines is mandatory, but it is recognized that deputies 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 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 sheriff or sheriff's designee may supersede this policy by providing specific instructions for BWC use to individual deputies, or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. The sheriff or designee may also provide specific instructions or standard operating procedures for BWC use to deputies assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

### **703.2 POLICY**

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

### **703.3 DEFINITIONS OF PHRASES USED IN THIS POLICY**

**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 General Records Retention Schedule for Minnesota Counties.

**Law Enforcement-Related Information** - 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.

**Evidentiary Value** - 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 deputy.

**General Citizen Contact** - 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.

**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.

**Unintentionally Recorded Footage** - A video recording resulting from a deputy'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 station house locker rooms, restrooms, and recordings made while deputies were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.

**Test Recording Footage** - A momentarily check of the BWC system conducted by a deputy to ensure the system is functioning correctly.

**Official Duties** - For purposes of this policy, means that the deputy is on duty and performing authorized law enforcement services on behalf of this office.

#### **703.4 USE AND DOCUMENTATION**

- (a) Deputies 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 office.
- (b) Deputies who have been issued BWCs shall operate and use them consistent with this policy. Deputies shall make sure their BWC is working properly at the beginning of each shift. Deputies noting a malfunction shall promptly report the malfunction to the deputy's supervisor and shall document the malfunction with an ICR. Supervisors shall take prompt action to address malfunctions and document the steps taken in the ICR.
- (c) Deputies should wear their issued BWCs on their uniform shirt or jacket (if worn) in a position near their upper chest area.
- (d) Deputies must document BWC use and non-use as follows:
  - 1. Whenever a deputy makes a recording, the existence of the recording shall be documented in an incident report if a case is generated or in the CAD notes if only a call is generated.
  - 2. Whenever a deputy fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the deputy must document the circumstances and reasons for not recording in a supplement report to the original ICR if a case is generated, or in the CAD notes if only a call is generated. Supervisors shall review these reports and initiate any corrective action deemed necessary.
- (e) The sheriff's office 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 agency;
  - 2. A daily record of the total number of BWCs actually deployed and used by deputies;
  - 3. The total amount of recorded BWC data collected and maintained; and
  - 4. This policy, together with the Records Retention Schedule.

#### **703.5 GENERAL GUIDELINES FOR RECORDING**

- (a) Deputies 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 703.4(d)(2).

- (b) Deputies have discretion to record or not record general citizen contacts.
- (c) Deputies 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 deputy having charge of a scene shall likewise 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, deputies shall state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, deputies shall reactivate their cameras as required by this policy to capture information having evidentiary value. A statement on camera such as, "Everything has settled down and the action appears to be over" should often suffice as a statement of reasons for stopping to record.
- (e) Deputies shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy, except as allowed in 703.6 (c).
- (f) Notwithstanding any other provision in this policy, deputies 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.

### **703.6 SPECIAL GUIDELINES FOR RECORDING**

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

- (a) 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) To use their BWCs 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.
- (c) To momentarily mute the BWC microphone for the purpose of strategic consultation amongst deputies.

In addition:

- (a) Deputies 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.
- (b) Deputies need not use their BWC 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. In-squad cameras will suffice for these types of transports.

Deputies should not record with BWC's 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. Deputies may want to restart BWC at the time subject is removed from the car and transferred to the custody of another.

### **703.7 DOWNLOADING AND LABELING DATA**

- (a) Each deputy using a BWC is responsible for assuring the proper transfer of the data from his or her BWC system during his or her shift without incurring overtime. The intent is to prevent an excessive buildup of data on the BWC DVR. However, if the BWC DVR contains data that is likely to be needed immediately for an ongoing criminal investigation or is of a serious nature, the deputy shall download the data prior to the end of his or her shift.
- (b) Deputies shall categorize the BWC data files by choosing the category that best describes the event within the provided menu options at the time of video capture.
- (c) In addition, Deputies shall make an attempt to identify those persons whose image may have been captured in the BWC video footage. The identity of these persons is important in order to comply with MGDPA requirements related to data subjects. This data should be documented within the deputy's narrative report or CAD notes. At times it will be impractical to identify every individual at a scene, but special attention should be given to identifying the following: Victims, undercover deputies, informants, mandated reporters, juvenile witnesses (if the nature of the event or activity justifies protecting their identity) and juvenile delinquents, and individual complainants.

### **703.8 ADMINISTERING ACCESS TO BWC DATA**

- (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 deputy who collected the data.
  - 3. Any other deputy whose voice or image is documented in the data, regardless of whether that deputy 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. After an investigation is complete, BWC data are public if they document 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. After an investigation is complete, BWC data are public if they document the use of force by a peace officer that result 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 deputies must be redacted.
4. Data that documents the final disposition of a disciplinary action against a public employee.

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.

#### 703.8.1 ACCESS TO BWC DATA BY NON-EMPLOYEES

Deputies shall refer members of the media or public seeking access to BWC data to the records supervisor who shall process the request in accordance with the MGDPA and other governing laws. In particular:

- (a) 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:
  1. If the data was collected or created as part of an active investigation.
  2. 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.
- (b) 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:
  1. Data on other individuals in the recording who do not consent to the release must be redacted.
  2. Data that would identify undercover deputies must be redacted.
  3. Data on other deputies who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted.

#### 703.8.2 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:

- (a) Deputies 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.
- (b) 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.
- (c) 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.

**703.8.3 OTHER AUTHORIZED DISCLOSURES OF DATA**

Deputies 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. Deputies 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:

- (a) 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.
- (b) BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

**703.9 DATA SECURITY SAFEGUARDS**

The Sherburne County Sheriff's Office IS will provide storage designed to back up all recordings.

- (a) Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view agency BWC data.
- (b) Deputies shall not intentionally edit, copy, alter, or erase any BWC recording unless otherwise expressly authorized by the sheriff or the sheriff's designee.
- (c) As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this office shall obtain an independent biennial audit of its BWC program.

**703.10 AGENCY USE OF DATA**

- (a) At least once a month, supervisors will randomly review BWC usage by each deputy 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 deputy 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) Deputies should contact their supervisors to discuss retaining and using BWC footage for training purposes. Deputy objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training deputies may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

**703.11 DATA RETENTION**

- (a) BWC data shall be retained for a minimum period of 90 days
- (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 a use of force report or supervisory review.
  - 2. Data documenting circumstances that have given rise to a formal complaint against a deputy.

- (d) 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.
- (e) Subject to Part f. (below), 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 office will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- (g) The office shall maintain an inventory of BWC recordings having evidentiary value. The inventory will be kept in the BWC management system.
- (h) The office will post this policy, together with its Records Retention Schedule, on its website.

**703.12 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.

**626.8473 PORTABLE RECORDING SYSTEMS ADOPTION; WRITTEN POLICY REQUIRED.**

Subdivision 1. **Definition.** As used in this section, "portable recording system" has the meaning provided in section 13.825, subdivision 1.

Subd. 2. **Public comment.** A local law enforcement agency must provide an opportunity for public comment before it purchases or implements a portable recording system. At a minimum, the agency must accept public comments submitted electronically or by mail, and the governing body with jurisdiction over the budget of the law enforcement agency must provide an opportunity for public comment at a regularly scheduled meeting.

Subd. 3. **Written policies and procedures required.** (a) The chief officer of every state and local law enforcement agency that uses or proposes to use a portable recording system must establish and enforce a written policy governing its use. In developing and adopting the policy, the law enforcement agency must provide for public comment and input as provided in subdivision 2. Use of a portable recording system without adoption of a written policy meeting the requirements of this section is prohibited. The written policy must be posted on the agency's website, if the agency has a website.

(b) At a minimum, the written policy must incorporate the following:

(1) the requirements of section 13.825 and other data classifications, access procedures, retention policies, and data security safeguards that, at a minimum, meet the requirements of chapter 13 and other applicable law;

(2) procedures for testing the portable recording system to ensure adequate functioning;

(3) procedures to address a system malfunction or failure, including requirements for documentation by the officer using the system at the time of a malfunction or failure;

(4) circumstances under which recording is mandatory, prohibited, or at the discretion of the officer using the system;

(5) circumstances under which a data subject must be given notice of a recording;

(6) circumstances under which a recording may be ended while an investigation, response, or incident is ongoing;

(7) procedures for the secure storage of portable recording system data and the creation of backup copies of the data; and

(8) procedures to ensure compliance and address violations of the policy, which must include, at a minimum, supervisory or internal audits and reviews, and the employee discipline standards for unauthorized access to data contained in section 13.09.

**History:** 2016 c 171 s 6