
Crookston Police Department

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USE OF BODY - WORN CAMERA (BWC)	POLICY # 112
AUTHORIZED BY: Paul Biermaier, Chief of Police	ISSUE DATE 07-28-2020
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REFERENCE(S): League of MN Cities Model Policy League of MN Cities Use of BWC (07-18-16) CPD Policy 113 In-Car Audio/Visual Recording MN Statute §13.82 Comprehensive Law Enforcement Data MN Statute §13.825 Portable Recording Systems MN Statute § 626.8473 Portable Recording Systems Adoption; Written Policy Required	MODIFICATION DATE

I. 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.

II. POLICY

It is the policy of the Crookston Police Department (CPD) to authorize and require the use of department-issued BWCs as set forth below, and to administer BWC data as provided by law. The primary purpose of using BWCs is to capture evidence and accurately document police-citizens encounters.

III. SCOPE

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of in-car audio/video recording systems (see CPD Policy 113). The chief or chief's designee may superseded this policy by providing specific instructions for BWC use to individual officers, or providing specific instructions pertaining to particular events or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 patents in hospitals and mental health facilities. This policy does not govern the use of surreptitious recording devices used in investigative operations.

IV. DEFINITIONS

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

- A. **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 towards 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.

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- B. **Body-worn camera (BWC)** refers to a forward facing camera worn by a peace officer that is capable of audio and video recording.
- C. **BWC Administrator(s)** refers to a designated personnel certified or trained in the operational use of BWCs, storage and retrieval methods and procedures. The administrator assigns, tracks, and maintains BWC equipment, oversees needed repairs or replacement of equipment through the vendor, prepares for biennial audit, controls user rights and access, and acts as a liaison with the vendor. The administrator is also responsible for training of law enforcement operations on the use of BWCs.
- D. **BWC Technician** refers to designated personnel certified or trained in the operational use of BWCs, storage and retrieval methods and procedures. Responsibilities include, but are not limited to, redaction, reproduction of recorded data, and maintains dissemination records regarding disclosure of data in accordance with MN statutes §13.82 and §13.825. Maintain an inventory of BWC data in accordance with the City of Crookston data retention schedule and/or General Records Retention Schedule for Minnesota Cities.
- E. **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.
- F. **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 their neighborhood.
- G. **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.
- H. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minnesota statute §13.01, et seq.
- I. **Official duties**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of the Crookston Police Department.
- J. **Unintentionally recorded footage** is a video recording which results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording is evidentiary value. Examples of unintentionally recording footage include, but not limited to, recordings during a vehicle check, recording made in the station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of non-business, personal nature with the expectation that the conversation was not being recorded.

V. 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.

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Supervisors shall take prompt action to address malfunctions and shall notify the BWC administrator(s).

- 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:
 - 1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report.
 - 2. Whenever an officer fails to record an activity that is required to be recorded under this policy, or 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. 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.

VI. GENERAL GUIDELINES FOR RECORDING

- A. Officers shall activate their BWCs when anticipating that they will be involved in, become involved in, or witness other officers of this agency involved in a pursuit, *Terry* stop of a motorist or pedestrian, search, seizure, arrest, use of force, adversarial contact, all emergency driving situations, mental health calls, suspicious persons calls 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 (V)(D)(2) (above).
- B. Officers have discretion to record or not record general citizen contacts.
- C. Officers have no affirmative duty to inform people that a BWC is being operated or that 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 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.
- E. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.

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- 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.

VII. 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.
- 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. In addition, 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.
- D. 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 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.

VIII. 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 "Evidence.com" cloud based storage 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.
- B. Officers shall label 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 labeling.
- C. For each digital recording, Officers shall select the proper Event ID/Label from the drop down menu and enter the corresponding incident number. Officers should assign the Event ID/Label according to training.

IX. 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.

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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.

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 Crookston Police Department Administration, 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.

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- 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:

- 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. Except as provided in the Officer Involved Shooting and Other Serious Incidents, 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. Access to BWC data may be granted to Crookston Police Department Detectives for the purpose of investigation. The Chief of Police and the Lieutenant may allow others access to specific BWC data as needed.
- 3. Agency personnel shall document their reasons for accessing stored BWC data in the manner provided within "Evidence.com" at the time of each access.
- 4. 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.
- 5. 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 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,

- 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.

X. DATA SECURITY SAFEGUARDS

- A. Data collected via BWC will be stored on a secure cloud based storage system called "Evidence.com" which is a cloud based storage securely maintained by Axon. BWC data will be coded appropriately into data types and stored accordingly to retention length outlined in this policy and/or in accordance with the City of Crookston Data Retention Policy.
- B. Each officer will have a secure account assigned to them through "Evidence.com" to manage BWC data they have collected.
- C. The Chief of Police or their designee (Administrative Assistant, Lieutenant, Sergeant, etc.) may have administrator capabilities for the purpose of managing and reviewing data.

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- D. Prosecuting attorneys may also be granted secure access to "Evidence.com" for the purpose of viewing specific evidentiary data necessary for prosecution and discovery.
- E. 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, except upon approval by a supervisor to access "Axon View" mobile app.
- F. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.
- G. 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.

XI. AGENCY USE OF DATA

- A. At least once a month, supervisors will randomly review BWC usage by each officer they supervise to ensure compliance with this policy and to identify any performance areas in which additional training or guidance is required.
- 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.
- 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.
- E. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

XII. 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.
- 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.

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- 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.
- H. The department will post this policy, together with a link to General Records Retention Schedule for Minnesota Cities, on its website.

XIII. TRAINING AND COMPLIANCE

- A. Users of the BWC systems shall successfully complete an approved course of instruction prior to being deployed. Completion of this training shall be documented by the designated trainer and retained in the employee training file.
- B. 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.