

Body-Worn Policies

434.1 PURPOSE

The primary purpose of using body-worn-cameras (BWCs) is to capture evidence arising from deputy-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 deputies must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain, and rapidly evolving.

434.1.1 OBJECTIVES

The Freeborn County Sheriff's Office has adopted the use of Body Worn Cameras (BWC) to accomplish the following objectives:

- A. To enhance officer safety.
- B. To document statements and events during the course of an incident.
- C. To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
- D. To preserve audio and visual information of use in current and future investigations.
- E. To enhance the public trust by preserving factual representations of deputy/citizen interactions in the form of audio/video recordings.
- F. To assist with the civil defense of civil actions against law enforcement officers and the County of Freeborn.
- G. To assist with the training and evaluation of deputies.
- H. To assist in maintaining a ZERO TOLERANCE facility with PREA.

434.1.2 POLICY

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

434.1.3 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 Sheriff or 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, including but not limited to, carrying out duties in courts guarding detainee's or patients in hospitals and mental health facilities and detective duties.

434.1.4 DEFINITIONS

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

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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 the Minnesota counties.

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 deputy.

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/her neighborhood.

F. Adversarial means a law enforcement encounter with a person who 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/her own are deemed adversarial.

G. Unintentionally recorded footage is a video recording that results from an deputy's inadvertence in operating the deputy'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.

H. Official duties, for purposes of this policy, means that the deputy is on duty and performing authorized law enforcement services on behalf of this agency.

434.1.5 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. All deputies on duty in uniform shall use a BWC, if issued, unless permission has been granted by a supervisor in writing, to deviate from this clause. Plain clothes investigators/deputies and administrators are allowed to use BWCs when interacting with citizens, when appropriate.

C. Deputies who have been issued BWCs shall operate and use them consistent with this policy. Deputies shall conduct a function test of their issued BWCs at the beginning of each shift to make

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sure the devices are operating properly. Deputies noting a malfunction during testing or at any other time shall promptly report the malfunction to the deputy's supervisor and shall document the report in writing. Supervisors shall take prompt action to address malfunctions and document the steps taken in writing.

D. Deputies should wear their issued BWCs at the location on their body and in the manner specified in training, unless permission has been granted by a supervisor, in writing, to deviate from this clause.

E. 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, citation or in the current Records Management System.

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 an incident report, or the current Records Management System. Supervisors shall review these reports and initiate any corrective action deemed necessary.

F. The 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 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.

434.1.6 GUIDELINES FOR RECORDING

A. Deputies 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 deputy/citizen contacts that becomes adversarial. However, deputies 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 (E)(2) (above).

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

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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.

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

F. Recording may be temporarily ceased or the audio muted to exchange information with other officers, legal counsel, or the lens obstructed in order to avoid capturing images of undercover officers, informants, or citizens where based on training and experience, in the judgment of the deputy, recording would not be appropriate or consistent with this policy. The reason to cease and resume recording (or to mute or obstruct the lens) will be noted by the deputy on the recorder or in a report.

G. 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.

434.1.7 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. Deputies should 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 deputy anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident

Deputies Assigned to the Transport/Court Security Division will also adhere to the following special guidelines.

A. If the physical transfer and the administration of restraints of a detainee is in a secure facility utilizing visible video surveillance the deputy shall not activate the BWC unless the deputy anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use of force incident.

B. Deputies will use the squad based audio/video system during a transport and shall only activate their BWC if they anticipate witnessing a criminal event or being involved in or witnessing an adversarial encounter or use of force incident.

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C. Deputies assigned to the guarding of a detainee or other person, in a facility listed above, shall not activate the BWC unless the deputy anticipate witnessing a criminal event or being involved in or witnessing an adversarial encounter or use of force incident.

D. Deputies shall not activate their BWC while conducting routine matters in the Freeborn County District Courts unless the deputy anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use of force incident.

E. Deputies shall follow direction from other agencies concerning the use of the BWC while in their facilities.

Detention Deputies will adhere to the following special guidelines.

A. Detention deputies shall activate their BWC when completing cell inspections and searches.

B. Detention deputies shall activate their BWC when conducting site, work, or home visits of work release detainees.

434.1.8 DOWNLOADING AND LABELING DATA

A. Each deputy using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to Watchguard Evicence Library via the docking station by the end of that deputy's shift. However, if the deputy 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 deputy's BWC and assume responsibility for transferring the data from it.

B. Deputies 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. Deputies should assign as many of the following labels, as are applicable, to each file:

Classification

Arrest

High Priority

Domestic

Interview

Misc.

Report

Assault

Traffic Citation

Traffic Warning

Traffic Accident

Training

Transport

Test Recording

Interview

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C. Labeling and flagging designations may be corrected or amended based on additional information.

434.1.9 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. 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 peace officer's 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. Deputies shall refer members of the media or public seeking access to BWC data to the Records Division who, shall process the request in accordance with the MGDPA and other governing laws. In particular:

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1. An individual shall be allowed to review recorded BWC data about himself/herself and other data subjects in the recording, but access shall not be granted:

a. If the data was collected or created as part of an active investigation.

b. To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82, subd. 17.

2. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines on redaction:

a. Data on other individuals in the recording, who do not consent to the release, must be redacted.

b. Data that would identify undercover deputies must be redacted.

c. 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.

F. Access by peace officer 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. 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. Deputies 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 as provided in watchguard evidence library 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. 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,

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.

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434.1.10 DATA SECURITY SAFE GAURDS

A. BWCs issued by the Freeborn County Sheriff's Office are designed and manufactured to prevent users from having the ability to edit, alter or erase BWC data. The BWC system utilized is designed to automatically upload BWC data to a secure server located at a secure on-site facility.

B. 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.

C. Deputies shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the Sheriff or designee.

D. 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.

434.1.11 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 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. Deputies should contact their supervisors to discuss retaining and using BWC footage for training purposes. Deputies' 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 trainee's performance.

434.1.12 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 seven 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.

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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. This office shall maintain an inventory of BWC recordings having evidentiary value.

H. This office will post this policy, together with a link to its Records Retention Schedule, on its website.

434.1.13 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.