

## Body Worn Cameras

### 422.1 INTRODUCTION

It is our mission to provide superior law enforcement services through the advancement of technology. To further achieve this goal, body-worn cameras will be used for the purpose of documenting evidence and accurately capturing contacts between members of the department and the public. The Plymouth Police Department is committed to the utilization of body-worn cameras as a means to reach this goal.

### 422.2 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 collected data. 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.

#### 422.2.1 DEFINITIONS

Definitions related to this policy include:

- (a) **Body-Worn Cameras:** means a device worn by an 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 and is provided in Minn. Stat. 13.825.
- (b) **MGDPA or Data Practices Act:** refers to the Minnesota Government Data Practices Act, Minn. Stat. 13.01, et seq.
- (c) **Records Retention Schedule:** refers to the General Records Retention Schedule for Minnesota Cities.
- (d) **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.
- (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 tow truck, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

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- (g) **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.
- (h) **Unintentional 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 police department 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.
- (i) **Official Duties:** for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this department.

#### **422.3 POLICY**

It is the policy of this department to authorize and require the use of department issued BWC's as set forth below, and to administer BWC data as provided by law. This policy governs the use of BWC's in the course of official duties. It does not apply to the use of squad-based (dash-cam) recording systems. The Public Safety Director or their designee may supersede this policy by providing specific instructions for BWC use to individual officers, or providing specific instructions pertaining to particular events or specialized details. This policy is a living document and any changes to the BWC policy must be approved by the City Manager.

#### **422.4 USE AND DOCUMENTATION**

- (a) Officers will use only department-issued BWC's in the performance of official duties for this department or when otherwise performing authorized law enforcement services as an employee of this department.
- (b) Officers who have been issued BWC's shall operate and use them in accordance with this policy. Officers shall conduct a function test of their issued BWC's 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 obtain a functioning device as soon as reasonably practical.
- (c) Officers should wear their issued BWC's in an approved, conspicuous location on their body.
- (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.
  - 2. If an event that is required to be recorded under this policy is not captured or only a part of the activity is captured, the officer must document the circumstances

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and reasons for not recording in an incident report or CAD notes. 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 BWC's owned or maintained by the agency.
  2. A daily record of the total number of BWC's actually deployed and used by officers.
  3. The total amount of recorded BWC data collected and maintained.
  4. This policy, together with the Records Retention Schedule.
  5. An accounting of when the Public Safety Director allows for any deviation of the policy, as described in section 422.3, will be mentioned in the quarterly report to the City Manager as found in section 422.10 (a).

#### **422.5 GENERAL GUIDELINES FOR RECORDING**

- (a) Officers shall activate their BWC's when anticipating that they will be involved in, become involved in, or witness other officers of this agency involved in a pursuit, motor vehicle stops, 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, section 422.4 (d)(2) (above).
- (b) Any member assigned to a non-uniformed position (Investigators, Special Investigations Unit, DTF, Training) may carry an approved BWC at any time the member believes the device may be useful. School Resource Officers (SRO) shall carry their BWC while working in their capacity as a SRO.
- (c) Officers have discretion to record or not record general citizen contacts.
- (d) Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded.
- (e) 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.
- (f) Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.

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- (g) Notwithstanding any other provision in this policy, officers shall not use their BWC's to record other agency personnel during non-enforcement related activities, such as 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.

#### **422.6 SPECIAL GUIDELINES FOR RECORDING**

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

- (a) To use their BWC's 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 BWC's 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, BWC's 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.
- (d) Officers shall use their BWC's and squad-based audio/video systems to record their transportation and the physical transfer of persons in their custody to hospitals, detox or 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, being involved in or witnessing an adversarial encounter or use-of-force incident.
- (e) Many portable recorders, including BWC's and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

#### **422.7 DOWNLOADING AND LABELING DATA**

- (a) Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his/her camera 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.
- (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.

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1. **Misc:** The recording does not contain any of the identified categories of information but a department member feels the information may have value in being retained.
  2. **Citation :** The information has evidentiary value with respect to a citation being issued by a member of this agency.
  3. **Arrest:** The information has evidentiary value with respect to an arrest of an individual by a member of this or another agency.
  4. **Use of Force:** Whether or not enforcement action was taken, the event involved the application of force by a member of this or another agency.
  5. **Evidence:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.
  6. **DWI :** The information has evidentiary value with respect to an incident of DWI.
  7. **Pursuit:** The information involved a vehicle pursuit event involving a member of this department or another agency.
  8. **Squad Crash:** The information has evidentiary value with respect to any crash involving a Department vehicle of this or another agency.
  9. **Death Investigation:** The information has evidentiary value with respect to death investigation.
  10. **Unknown:** This is a default label indicating the recording does not contain any of the foregoing categories of information and has no apparent evidentiary value.
- (c) In addition, staff 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 before the file is disseminated. These individuals include:
1. Victims and alleged victims of criminal sexual conduct and/or 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

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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 an inquiry 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.

#### **422.8 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 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

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

However, if another provision of the MGDPA 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 Administrative Manager, 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:
  - i. If the data was collected or created as part of an active investigation.
  - ii. 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:
  - i. Data on other individuals in the recording who do not consent to the release must be redacted.
  - ii. Data that would identify undercover officers must be redacted.
  - iii. 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. Additionally, Officers may review video footage of a typical law enforcement incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident. The exception will be officer involved shootings or other critical incidents. The Department will abide by the investigative protocols established by the Minnesota Bureau of Criminal Apprehension that officers will not typically be allowed to view BWC or squad camera footage prior to giving their statement. There may be isolated situations where this will be allowed. This decision will be made on a case by case basis.
2. Agency personnel shall document their reasons for accessing stored BWC data 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

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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.

#### 422.9 DATA SECURITY SAFEGUARDS

- (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) Officers shall not intentionally edit, alter, or erase any BWC recording.
- (c) 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.

#### 422.10 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. Supervisors will submit their findings to the Patrol Commander who will compile the information into a quarterly report that will be forwarded to the Director of Public Safety and the City Manager.
- (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 an inquiry 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. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.



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#### **422.11 <B>DATA RETENTION</B>**

- (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) 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 must be retained according to the department's record retention schedule.
- (d) Data documenting circumstances that have given rise to a formal inquiry against an officer must be retained according to the department's record retention schedule.
- (e) 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.
- (f) Subject to Part g (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.
- (g) Upon written request by a BWC data subject, the Department shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The Department will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- (h) The Department shall maintain an inventory of BWC recordings having evidentiary value.
- (i) The Department will post this policy, together with its Records Retention Schedule, on its website.

#### **422.12 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.

#### **422.14 CONCLUSION**

The use of this technology will add a higher level of transparency of the professional services provided by Plymouth Police Department. This device will also aid in the documentation of events to be used in an evidentiary manner. There needs to be an understanding that the camera view will not capture the entire incident or event, thus it cannot be construed that images are a complete representation of actions by officers and citizens.