**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.”*](https://www.lmc.org/resources/use-of-body-worn-cameras/)

**Exclamation point in a circle marks comments or places to customize the model.**

**This icon marks 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

**Exclamation point in a circle marks comments or places to customize the model.**

*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. 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. Officers are excused from recording requirements, however, when they must prioritize other primary duties or safety concerns, especially in circumstances that are tense, uncertain, and rapidly evolving.

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*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).*](http://scholar.google.com/scholar_case?case=4306215806680760770&q=490+U.S.+386&hl=en&as_sdt=3,24)

## 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. Unless otherwise prohibited by law, the chief or chief’s designee may supersede this policy by providing specific instructions for BWC use to individual officers, or by 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.

**Exclamation point in a circle marks comments or places to customize the model.***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 Brady/Giglio-impaired; and (2) ensure that discretion exists to override normal recording guidelines for events where BWC 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 modify the guidelines for special assignments and duties.*

## Definitions

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

1. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
2. **Records Retention Schedule** refers, depending on context, to the General Records Retention Schedule for Minnesota Cities (last revised March 2021) or to the agency’s records retention schedule approved pursuant to Minnesota Statutes section 138.17. \

**Exclamation point in a circle marks comments or places to customize the model.***County agencies will need to modify the policy to reflect their own record retention schedule.*

1. **Law enforcement-related** refers to activities or information pertaining to a stop, arrest, search, seizure, use of force, investigation, citation, or charging decision.
2. **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.

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*“[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.*

1. **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.
2. **Adversarial** refers to 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.

**Exclamation point in a circle marks comments or places to customize the model.***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*.

1. **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 and 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.
2. **Official duties,** for purposes of this policy, refers to law enforcement activities and services performed by an officer of this agency while on duty. In circumstances where an officer is also employed by another agency as a peace officer, the officer is not performing official duties on behalf of this agency while acting in the course and scope of their employment for the other agency.

## Use and Documentation

1. Officers may use only department issued BWCs while engaged in the performance of official duties.
2. Officers who are engaged in the performance of official duties and have been issued BWCs shall use and operate them in compliance with this policy. This requirement includes situations where the officer is under the command and control of another chief law enforcement officer or federal law enforcement official while performing official duties for this agency.
3. Officers shall conduct a function test of their issued BWCs at the beginning of each shift. Officers noting a malfunction during testing or at any other time shall promptly report it 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.

**Exclamation point in a circle marks comments or places to customize the model.**

*Minnesota Statutes section 626.8473, subdivision 3, provides that policies must contain procedures for identifying and addressing malfunctions, including procedures for officers to test the functioning of their equipment. Agencies should consider incorporating device-specific protocols for function testing into this policy. Satisfactory documentation of malfunctions and corrective actions could include emails, notes, or memoranda that the agency maintains as part of its BWC program records.*

1. Officers shall wear their issued BWC at or above the midline of the waist in a position that maximizes the capacity of the device to record video footage of the officer’s activities.
2. Officers must document BWC use and non-use as follows:
3. Whenever an officer makes a recording, the existence of the recording shall be documented *[specify method of documentation].*
4. 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 or *[specify other method of documentation]*. Supervisors shall review these reports and initiate any corrective action deemed necessary.

**Exclamation point in a circle marks comments or places to customize the model.***Agencies should conform the requirements and terminology of parts E(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 that are made, 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. 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;

* 1. 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;
  2. The total amount of recorded BWC data collected and maintained; and
  3. This policy, together with the applicable records retention schedule.

## General Guidelines for Recording

**Choose one:**

1. [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 (E)(2) (above).

**Exclamation point in a circle marks comments or places to customize the model.**

*See LMC Information Memo, “*[*Use of Body-Worn Cameras*](http://lmc.org/media/document/1/UseOfBodyWornCameras.pdf?inline=true)*,” Section IV, Deciding what to record. Option 1 requires the recording of all responses to calls for service and law enforcement-related activities.*

**Or,**

1. [Option 2] Officers shall activate their BWCs when they become involved in, should reasonably anticipate becoming involved in, or when witnessing another officer engage 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 (E)(2) (above).

**Exclamation point in a circle marks comments or places to customize the model.***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.”*

1. Officers have discretion to record or not record general citizen contacts.
2. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded.

**Exclamation point in a circle marks comments or places to customize the model.**

*The working group believed that requiring officers to announce when they are recording could become a source of distraction for them and a potential debating point during tense encounters.*

1. Once activated, officers should continue recording with their BWCs 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 direct that recording be discontinued when additional recording is unlikely to capture information having evidentiary value. If the recording is discontinued while an investigation, response, or incident is ongoing, the officer 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.

**Exclamation point in a circle marks comments or places to customize the model.***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.*

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

**Exclamation point in a circle marks comments or places to customize the model.**

*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 where 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 computer screen displaying private or confidential data; or audio of officers conferring about a 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 administered.*

1. 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 the recording is authorized as part of an administrative or criminal investigation.

## Special Guidelines for Recording

Officers may, in the exercise of sound discretion, use their BWCs:

1. 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.

**Exclamation point in a circle marks comments or places to customize the model.**

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

1. 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,

1. 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, the basis for any transport hold, 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.

**Exclamation point in a circle marks comments or places to customize the model.**

*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 it already requires the recording of all responses to calls for service and all law enforcement-related encounters and activities.*

1. 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.

**Exclamation point in a circle marks comments or places to customize the model.***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 vehicle and transferred to the custody of another.*

## Downloading and Labeling Data

1. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from their 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.

**Exclamation point in a circle marks comments or places to customize the model.**

*Agencies will need to conform this language to their own technologies and business practices. The core idea is that the responsibility for handling routine daily transfers of 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, investigator, or technician) should take custody of the involved officer’s BWC and become responsible for transferring the data. Doing so will safeguard the integrity of the investigation and protect the involved officer against allegations of mishandling evidence.*

1. 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. *[Include specific instructions for this process.]* Officers should assign as many of the following labels as are applicable to each file:

**Exclamation point in a circle marks comments or places to customize the model.**

*See Section V-A, Labeling data for retention purposes, in Information Memo, “*[*Use of Body-Worn Cameras*](https://www.lmc.org/resources/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.

**Exclamation point in a circle marks comments or places to customize the model.***Properly labeling the BWC data can point toward the appropriate retention period. The Records Retention Schedule provides that retention periods for cases that have been charged or have been forwarded to a prosecutor for a charging decision are based on the status of court proceedings. (Records Retention Schedule Code POL 05840.) Otherwise, BWC data and other recordings that have evidentiary value in a criminal case must be maintained until expiration of the statute of limitations for the crime involved. (POL 05900.) Counties will need to consult their own records retention schedule for guidance.*

1. **Evidence—force:** Whether or not enforcement action was taken or an arrest resulted, the event involved the application of force by an officer of this agency of sufficient degree or under circumstances triggering a requirement for supervisory review. Recordings that document the use of deadly are covered separately.

**Exclamation point in a circle marks comments or places to customize the model.**

*These recordings must be maintained for seven years regardless of the disposition of any related criminal case. (POL 05930.)*

1. **Evidence—deadly force:** The event involved the application of deadly force by a peace officer, regardless of whether death occurred.

**Exclamation point in a circle marks comments or places to customize the model.***Pursuant to section 13.825, subdivision 3(c), data that document a peace officer’s use of deadly force must be retained indefinitely.*

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

**Exclamation point in a circle marks comments or places to customize the model.***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. Recordings of incidents that result in a formal complaint against an officer must be retained for a minimum period of one year. (Minn. Stat. § 13.825, subd. (3)(b)(2); POL 05876.) Note, however, that a longer retention period applies if there is an internal investigation into the incident—BWC data that has evidentiary value in any internal investigation must be retained until five years after the subject employee separates from employment. (POL 05880.) Counties will need to consult their own records retention schedule for guidance*.

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

**Exclamation point in a circle marks comments or places to customize the model.**

*The retention period will depend on the reason for maintaining the data.*

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

**Exclamation point in a circle marks comments or places to customize the model.**

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

1. **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.

**Exclamation point in a circle marks comments or places to customize the model.**

*Data not identified as having evidentiary value is subject to a 90-day retention period under Minnesota Statutes section 13.825, subdivision 3(a), and Retention Code POL 05864.*

1. 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:

**Exclamation point in a circle marks comments or places to customize the model.***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*](https://www.lmc.org/resources/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 portions of the video are 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 made a complaint of a violation pertaining 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.
15. Labeling and flagging designations may be corrected or amended based on additional information.

## Administering Access to BWC Data:

1. **Death resulting from force—access to data by survivors and legal counsel.** Notwithstanding any other law or policy to the contrary, when an individual dies as a result of force used by an officer of this agency, all BWC data documenting the incident, redacted only as required by law, must be made available for inspection by any of the following individuals within five days of their request:
   * + 1. The deceased individual’s next of kin.

* + - 1. The legal representative of the deceased individual’s next of kin.
      2. The other parent of the deceased individual’s child.

The request may be denied if there is a compelling reason that inspection would interfere with an active investigation. If access is denied, the *[chief of police] [sheriff]* must provide a prompt, written denial to the requestor with a short description of the compelling reason that access was denied. The written denial must also provide notice that relief may be sought from the district court pursuant to Minnesota Statutes section 13.82, subdivision 7.

1. **Death resulting from force—release of data to the public.** When an individual dies as a result of force used by an officer of this agency, all BWC data documenting the incident, redacted only as required by law, must be released and classified as public within 14 days after the incident, unless the *[chief of police] [sheriff]* asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by Minnesota Statutes section 13.82, subdivision 7.

**Exclamation point in a circle marks comments or places to customize the model.**

*Parts A and B of this section on Administering Access to BWC Data reflect 2023 amendments to sections 13.825 and 626.8473 and are mandatory policy elements. Part A provides for timely access to BWC data by designated survivors and their legal representative unless there is a compelling reason to believe that knowledge of this data would interfere with an active investigation. Note that these survivors have a right only to inspect the data, not to have copies of it. Part B provides that BWC data must be released within 14 days after the incident unless this public classification would interfere with the ongoing investigation. This is a higher standard for maintaining confidentiality than provided by section 13.82, subdivision 7, which classifies active investigative data as confidential without any need to show that access would hamper an investigation. Agencies should note that sections 13.825 and 626.8473 require that the chief law enforcement officer, rather than a designee or responsible authority, be the one to provide the required written notices when the agency withholds access to data in the circumstances specified.*

1. **Data subjects.** Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:
2. Any person or entity whose image or voice is documented in the data.
3. The officer who collected the data.
4. 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.
5. **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:
6. BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.
7. Some BWC data is classified as confidential (*see* part E, below).
8. Some BWC data is classified as public (*see* part F, below).
9. **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 in part D, and the “public” classifications listed below in parts F(2)(a) and (b). However, special classifications and access rights are applicable to BWC data documenting incidents where an officer’s use of force results in death (*see* parts A and B, above).
10. **Public data.**
11. Data that documents the final disposition of a disciplinary action against a public employee is classified as public without regard to any ongoing criminal investigation.

**Exclamation point in a circle marks comments or places to customize the model.**

*Data that documents the final disposition of a disciplinary action is public even if this same data is being maintained as part of an active criminal investigation. See Advisory Op’n 18-017.*

1. The following data is public unless it is part of an active criminal investigation or is subject to a more restrictive classification. For instance, data that reveals protected identities under Minnesota Statutes section 13.82, subdivision 17 (e.g., certain victims, witnesses, and others), should not be released even if it would otherwise fit into a category of data classified as public.
   1. Data that record, describe, or otherwise document actions and circumstances surrounding the use of force by a peace officer that results in substantial bodily harm, or 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.

**Exclamation point in a circle marks comments or places to customize the model.**

*The former version of section 13.825, subdivision 2(a)(1)provided only that data documenting the discharge of a firearm or use of force resulting in substantial bodily harm were public. In 2019, the Commissioner of Administration opined that the statute provided scant guidance on how much of an incident was classified as public and therefore left agencies with discretion in making this determination. See Advisory Op’n 19-005. A 2023 amendment to this provision broadens the swath of data about these incidents that are classified as public.*

* 1. 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.

**Exclamation point in a circle marks comments or places to customize the model.**

*The “if practicable” language is noted as optional but is not 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. Minnesota Statutes section 13.825, subdivision 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*.

1. **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:
2. An individual shall be provided with access and 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.

* 1. 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 Minnesota Statutes section 13.82, subdivision 17.

1. 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.

**Exclamation point in a circle marks comments or places to customize the model.**

*See above note at section F(2)(b) on public data.*

* 1. Data that would identify undercover officers must be redacted.
  2. 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.

1. **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.

**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.

**Exclamation point in a circle marks comments or places to customize the model.***See Information Memo, “*[*Use of Body-Worn Cameras*](https://www.lmc.org/resources/use-of-body-worn-cameras/)*”, Section V-C, Officer access to video and critical incidents*; *Information Memo,* “[*Planning for Critical Incident Responses*](https://www.lmc.org/resources/planning-for-critical-incident-responses/)”*, Section VI-D, Officer interviews: review and use of digital evidence.*

1. Agency personnel shall document their reasons for accessing stored BWC data *[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.
2. Employees seeking to inspect or have copies of BWC data for non-business reasons may make a request for it in the same manner as any member of the public.
3. **Other authorized disclosures of data.** Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minnesota Statutes section 13.82, subdivision 15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of 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.

**Exclamation point in a circle marks comments or places to customize the model.**

*The documentation requirements in parts H(2) and I(1) are intended to foster accountability with regard to the limitations on access to and dissemination of BWC data applicable to law enforcement employees.*

## Data Security Safeguards

1. *[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:**

1. [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,**

1. [Option 2] Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy.

1. This policy prohibits altering, erasing, or destroying any BWC data or metadata prior to the expiration of the applicable retention period.
2. As required by Minnesota Statutes section 13.825, subdivision 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

1. At least once a month, supervisors will randomly review BWC usage by each officer to whom a BWC is issued, or available for use, to ensure compliance with this policy *[and to identify any performance areas in which additional training or guidance is required.]*

**Exclamation point in a circle marks comments or places to customize the model.**

*See Information Memo, “*[*Use of Body-Worn Cameras*](https://www.lmc.org/resources/use-of-body-worn-cameras/)*”, Section V-D, Supervisory review, for policy considerations pertaining to supervisory review of data for performance assessment.*

1. 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.
2. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.

**Exclamation point in a circle marks comments or places to customize the model.***This language is based on the Peace Officer Discipline Procedures Act, Minnesota Statutes section 626.89, subdivision 10.*

1. 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

1. Retention periods for BWC data are established by law and the Records Retention Schedule. When a particular recording is subject to more than one retention period, it shall be maintained for the longest applicable period.

1. All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.
2. Certain kinds of BWC data must be maintained for a minimum period of one year. These are:
   * + 1. Data that document the accidental discharge of a firearm by a peace officer in the course of duty.
       2. Data that document an incident resulting in a formal complaint against an officer. However, a longer retention period applies if the recording is relevant to an internal affairs investigation.

**Exclamation point in a circle marks comments or places to customize the model.***Intentionally discharging a firearm at someone for purposes of defense or control constitutes a use of force and is subject to a longer retention period than for an accidental discharge. (POL 05930). Data resulting in a formal complaint is subject to a one-year retention period under Minnesota Statutes section 13.825, subdivision 3(b)(2), and Records Retention Code POL 05876. But a longer period is applicable for data that is determined to have value in any internal affairs investigation. (POL 05880.) Counties will need to consult their own records retention schedule for guidance.*

1. Data documenting the use of force by a peace officer that results in substantial bodily harm, or force that is of a sufficient type or degree to require supervisory review under the agency’s policy, must be retained for a minimum period of seven years.

**Exclamation point in a circle marks comments or places to customize the model.**

*Section 13.825, subd. 3(b) provides for one-year retention of data documenting the discharge of a firearm and for force resulting in substantial bodily harm. However, the General Records Retention Schedule for Minnesota Cities establishes seven-year retention periods for force incidents where a supervisory review is completed. (Code POL 05930.) As a matter of sound risk management, agency policies should provide for at least some level of supervisory review in cases where the force used could foreseeably subject the officer or agency to liability. Counties will need to consult their own records retention schedule for guidance*.

1. Data determined to have evidentiary value in any internal affairs investigation must be retained for five years after termination or separation of the employee who is the subject of the investigation. *(POL 05880.)*
2. Other data having evidentiary value shall be retained for the period specified by law or the records retention schedule.
3. 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.
4. 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.
5. The department shall maintain an inventory of BWC recordings having evidentiary value.

**Exclamation point in a circle marks comments or places to customize the model.**

*The* [*General Records Retention Schedule for Minnesota Cities*](https://www.mcfoa.org/resources/Documents/2021_Retention_Schedule.pdf) *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.*

1. 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. Noncompliance may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minnesota Statutes section 13.09.