



## **Purpose**

The use of body-worn cameras (BWCs) by the Rosemount Police Department is intended to promote the mission of the Department and capture evidence arising from contacts between members of the Department and the public. Other objectives include:

- A. To enhance officer safety
- B. To enhance transparency and public trust by preserving factual representations of officer-citizen interactions in the form of audio-video recordings.
- C. To document statements and events during the course
- D. To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
- E. To preserve audio and visual information for use in current and future investigations.
- F. To provide a tool for self-critique and field evaluation during officer training
- G. To assist with the defense of civil actions against law enforcement officers and the City of Rosemount
- H. To assist with accountability, training and evaluations of officers.

This policy sets forth guidelines governing the use of BWCs and administering the data which results. Compliance with these guidelines is mandatory, but it is recognized that digital evidence captured by the Department's portable video recording system is not all-inclusive. This policy reflects a balance between the desire to establish exacting and detailed requirements and the reality that officers must also attend to their primary duties that include the safety of all concerned, sometimes in circumstances that are tense, uncertain, rapidly evolving, and dangerous.

## **Policy**

It is the policy of this department to authorize and require the use of department-issued BWCs as set forth below and as required by MN Statute 626.8473.

## **Scope**

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of in-car camera (ICC) recording systems. The chief or chief's designee may supersede this policy by providing specific instructions for BWC use to individual officers, or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. The chief or



designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

## Definitions

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

- A. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- B. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.
- C. **Law enforcement-related information** means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- D. **Evidentiary value** means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.
- E. **General citizen contact** means an informal encounter with a citizen that is not prompted by a call for service and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation.
- F. **Adversarial** means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.
- G. **Unintentionally recorded footage** is a video recording that results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recordings made



in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.

- H. **Official duties**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency or while providing department-approved on-duty or off-duty security/safety services.
- I. **Body Worn Camera (BWC)** is a portable recording system as defined in MN Statute 13.825 subd 1(b)(1) as a device worn by a peace officer that is capable of video and audio recording of the officer's activities and interactions with others or collecting digital multimedia evidence as part of an investigation.
- J. **Critical Incident** refers to an encounter between a police officer and another person that results in great bodily harm or death to another person. A critical incident could include an officer's use of force or deadly force encounter between a police officer and a member(s) of the public. A critical incident may also include an in-custody death of a person in the care, custody, or control of an officer.

### 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.
- C. 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 in writing through Guardian Tracking System. Supervisors shall take prompt action to address malfunctions and document the steps taken in writing.
- D. Officers should wear their issued BWCs at the location on their body and in the manner specified in training.



- E. 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, citation, computer aided dispatch (CAD) records, or other documented record of the event.
  2. Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report, CAD record, or other documented record of the event and then notify a supervisor. Supervisors shall review these reports and initiate any corrective action deemed necessary.
- F. The department will maintain the following records and documents relating to BWC use, which are classified as public data:
1. The total number of BWCs owned or maintained by the agency;
  2. A daily record of the total number of BWCs actually deployed and used by officers and, if applicable, the precincts in which they were used;
  3. The total amount of recorded BWC data collected and maintained; and
  4. This policy, together with the Records Retention Schedule.

## **General Guidelines for Recording**

- A. Officers shall activate their BWCs while in route to any dispatched or self-initiated call for service. Officers shall activate their BWC before interacting with those involved in the respective incident when possible or when anticipating that they will be involved in, become involved in, or witness other officers of this agency involved in a pursuit, *Terry* stop of a motorist or pedestrian, search, seizure, arrest, use of force, adversarial contact, and during other activities likely to yield information having evidentiary value. However, officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines, part (E)(2) (above).



- B. Officers have discretion to record or not record general citizen contacts or other non in person contacts such as call for service related phone calls. Officers can record their phone calls if they feel the call is going to be contentious or confrontational or if it may have evidentiary value.
- C. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded. Officers may elect to notify people they encounter that a BWC is being operated if it is felt that doing so may aid the law enforcement process; reduce fear on the part of a person subjected to a law enforcement contact; improved the behavior of an involved person; or if it serves to de-escalate an encounter.
- 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. All officers participating in the service of a search warrant shall wear and record the execution of the court-approved warrant. Based on the circumstances, the case investigator or on-scene sergeant may direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. Officers assisting the Dakota County Drug Task Force (DCDTF) or an outside law enforcement agency in the execution of a search warrant may be exempted from recording upon the request of the commanding officer of the DCDTF or the outside law enforcement agency with the approval of the Chief of Police or their designee.
- F. Recording may be temporarily ceased, or the audio muted to exchange information with other officers, legal counsel, or the lens obstructed to avoid capturing images of undercover officers, informants, or citizens where based on training and experience, in the judgement of the officer a recording would not be appropriate or consistent with this policy. The reason to cease and resume



recording (or to mute audio and obstruct the lens) will be noted by the officer either verbally on the portable audio/video recorder or in a written report.

- G. 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.
- H. No member of the department shall intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the Chief of Police or designee, in writing.
- I. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.
- J. Officers assigned to a "plain clothes" investigative assignment, undercover assignment, or uniformed administrative role shall not be required to wear a BWC during their day-to-day work unless working in a uniformed call response capacity or are otherwise required by this policy or supervisory directive.
- K. Officers assigned to an undercover investigative assignment to a task force (Dakota County Drug Task Force or similar task force), shall be required to activate their assigned BWC and record the execution of a court-approved warrant. However, the officer may be exempted from the use of their BWC upon the request of the commanding officer of the DCDTF or the outside law enforcement agency with the approval of the Chief of Police or designee.
- L. Officers assigned to the SWAT team shall be required to activate their assigned BWC to record on-scene callout response actions or as otherwise required by this policy or supervisory directive. However, the officer may be exempted from the use of their BWC upon the request of the commanding officer of the SWAT team or the outside law enforcement agency with the approval of the Chief of Police or designee.
- M. Officers assigned to the role of school resource officer, shall not be required to activate their assigned BWC unless taking enforcement action, interviewing or investigating a student(s) regarding an alleged offense, or engagement in a potentially adversarial encounter to the extent known. The school resource officer shall not record conversations with school staff regarding students, except when the school resource officer is taking a formal statement from a school staff member and the school staff member has been advised that they are being recorded.



## **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.
  1. Officers should utilize the Axon Capture application primarily for recorded statements. In exigent circumstances, if the Axon Capture application is not available for use, a BWC camera can be used to take a recorded statement. When the BWC is used for a statement, a separate recording must be created for the statement alone. Officers should comply with policy and dictate the reason for starting/stopping a recording.
- C. Officers shall use their BWC and ICC 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.

## **Data Labeling and Retention**

- A. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to the designated storage location by the end of that officer's shift.
  - a. 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. Refer to the Axon Data Labeling and Retention policy (324.1) for further guidelines.



## 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 documenting the use of force by a peace officer that results in “substantial bodily harm” as defined in MN Statute 609.02, subd. 7a, “great bodily harm” as defined in MN Statute 609.02, subd. 8, or death.
  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.

With the approval of the Chief of Police, this department may make otherwise non- public data, public data if that determination could aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest, consistent with MN Statutes, section 13.82, subdivision 15.

- E. **Access to BWC data by non-employees.** Officers shall refer members of the media or public seeking access to BWC data to the Records Supervisor or Chief of Police, 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.
    - 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.** Access to BWC data shall be limited to the employee who captured the BWC data, supervisory personnel, and others deemed by the Chief of Police or support designee to have a need for access such as case investigators and support services personnel. Employees may access and view BWC data only when the access is in the course and scope of the employee's lawful job duties including:
1. To prepare a police report stemming from a call for service or self-initiated activity.
  2. To prepare for courtroom testimony.
  3. To prepare to give a statement to an internal affairs investigator the employee may view the BWC data with their legal counsel or union representation before making a report or statement.
  4. If involved in a critical incident, the employee may view the BWC data at the request of their legal counsel or union representation before making a report or statement.
  5. 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 enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency to public and social media websites.
  6. 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. 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.

### **Data Security Safeguards**

- A. Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy.
- B. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.
- 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.

### **Agency Use of Data**

- A. All images and sounds recorded by the BWC are the exclusive property of this department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.
  1. All BWC recordings are subject to an audit by a supervisor for reviews involving the use of force, pursuits, officer injuries, damage to city equipment, officer-involved accidents, or any other law enforcement purpose.
    - a. Unauthorized access of BWC recordings is prohibited if unauthorized access occurs the violation will be reviewed in accordance with disciplinary action of this policy.
  2. If an officer would like to retain or use their BWC recording for training purposes, they should contact their supervisors for approval.
    - a. Approval to utilize BWC recordings for law enforcement training purposes only must be approved by the Chief of Police or designee.
    - b. Any BWC recordings to be used for law enforcement training purposes outside of the department shall be redacted before use.
  3. Field training officers may review BWC recordings with trainees to provide coaching and feedback on the trainee's performance.



- B. Supervisors will randomly review BWC recordings made by each officer they supervise to ensure the equipment is operating properly and being used in accordance with policy. Any noted non-compliance with departmental policy pertaining to BWC use shall be documented.
- C. As part of the officer's monthly review, sergeants shall document the review date of an officer's BWC recording, the incident or case number, and any identified performance areas in which additional training or guidance may be required.
  - 1. During the supervisory review of officer BWC recordings, supervisors are strongly encouraged to identify, document, and commend excellence in service or superior police work observed in the BWC recordings. The documentation should occur on the officer's monthly review.

## **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.