

Body Worn Cameras

419.1 PURPOSE AND SCOPE

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 results. Compliance with these guidelines is mandatory, but it is recognized that officers must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain, and rapidly evolving.

419.1.1 DEFINITIONS

MGDPA or Data Practices Act refers to the Minnesota Government Data Practices Act Minnesota Statutes, ch. 13.

Records Retention Schedule refers to the Records Retention Schedule for the City of Minnetonka approved pursuant to Minn. Stat. Sec. 138.17.

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.

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.

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.

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 or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.

Unintentionally Recorded Footage is 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 are engaged in conversations of a non-business personal nature with the expectation that the conversation was not being recorded.

Official Duties, for the purpose of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of the Minnetonka Police Department.

Minnetonka Police Department

Policy Manual

Body Worn Cameras

Responsible Authority is the person designated by the Minnetonka City Council to perform the duties of a responsible authority under Minn. Stat. ch. 13.

419.2 OFFICER USE AND DOCUMENTATION

- (a) Officers may use department issued BWC only in the performance of official duties or when otherwise performing authorized law enforcement services as an employee of the Minnetonka Police Department.
- (b) Officers must use BWCs consistent with this policy. Officers assigned to a uniformed function and non-uniformed officers engaged in field activities must conduct a function test of their BWC at the beginning of each shift to make sure the device is operating properly. Officers noting a malfunction during testing, or at any other time, shall promptly report the malfunction to the officer's supervisor and shall document the report in writing. Supervisors shall take prompt action to address the malfunctions and document the steps taken in writing.
- (c) Officers should wear their BWC at the location on their body in the manner specified in training.
- (d) Officers who lose their BWC must immediately report the missing device to the on duty supervisor and complete an incident report explaining the circumstances around the loss.
- (e) Officers must document BWC use and non-use as follows:
 - 1. Whenever an officer makes a recording, the existence of the recording must be documented in an incident report or CAD record.
 - 2. When ever 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 CAD record. 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 department.
 - 2. A daily record of the total number of BWCs 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.

419.3 GENERAL GUIDELINES FOR RECORDING

- (a) Uniformed officers shall activate their BWCs when anticipating that they will be involved in, become involved in, or witness other officers of this department involved in a pursuit, an enforcement or investigatory 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

Minnetonka Police Department

Policy Manual

Body Worn Cameras

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 sentence 2 from above.

- (b) Any officer assigned to administrative or non-uniformed positions should wear a BWC when executing search warrants, on preplanned apprehension or enforcement details, or any other time the officer believes the device may be useful in capturing law enforcement information or recording information of evidentiary value.
- (c) Officers assigned to the Southwest Hennepin County Drug Task Force shall use body camera equipment provided by the DTF and follow operating guidelines approved by the DTF governing board.
- (d) The SWAT commander will determine how BWCs are used during SWAT operations.
- (e) It is recognized that the duties and working environment for School Resource Officers are unique within law enforcement. It is understood that SROs are required to maintain school safety while keeping the sanctity of the learning environment that the school provides. SROs are expected to continuously build trusting relationships with students and staff. They also often have impromptu interventions with students to deescalate conflicts. It is with this understanding that the Minnetonka Police Department provides special regulations to SROs and their use of BWCs. The BWC should be activated in any of these situations:
 - 1. When summoned by any individual to respond to an incident where it is likely that law enforcement action will occur when you arrive.
 - 2. Any self-initiated activity where it is previously known that you will make a custodial arrest.
 - 3. Any self-initiated activity where it is previously known that your investigation will be used later for criminal charges or juvenile court proceedings.
 - 4. When feasible an SRO should activate the BWC when the contact becomes adversarial or the subject exhibits unusual behaviors.
- (f) Officers have the discretion to record or not record general citizen contacts.
- (g) Officers have no obligation to inform people that a BWC is being operated or that the individuals are being recorded, however officers are permitted to make notification if they believe it will aid in the de-escalation of the situation.
- (h) 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 before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
- (i) In the event of a critical incident every officer shall continue recording until told to discontinue by a supervisor.

Minnetonka Police Department

Policy Manual

Body Worn Cameras

- (j) Officers shall not intentionally block the BWCs audio or visual recording functionality to defeat the purposes of this policy.
- (k) Officers should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears that such privacy outweighs any law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion.
- (l) Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other department personnel during non-enforcement related activities, such as roll call or shift briefings, 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.
- (m) Officers should use their BWCs in conjunction with their vehicle based MVR 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.
- (n) Recording is not necessary in the Minnetonka Police Detention Facility; however, officers may use their discretion to use their BWC to supplement the detention facility recordings.
- (o) Recording is not required where prohibited by other agencies or institutions, such as the intake area at the Hennepin County Jail or hospital emergency rooms.
- (p) The chief of police or 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.

419.3.1 SPECIAL GUIDELINES FOR RECORDING

Officers have discretion to:

- (a) 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) Use their BWCs to take recorded statements from persons believed to be victims of or witnesses to crimes, and persons suspected of committing crimes.
- (c) Not record persons being provided medical care unless there is a 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 the basis for any use of force, and any other information having evidentiary value, but need not be activated when doing so would only serve to record symptoms or behaviors believed to be attributable to the mental health issue.
- (d) Many portable recorders, including BWCs, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

Minnetonka Police Department

Policy Manual

Body Worn Cameras

419.4 DOWNLOADING AND LABELING DATA

- (a) Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her BWC 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 data from it.
- (b) Officers shall label the BWC data files at the time of capture or transfer to storage, and should consult with a supervisor if in doubt as to the proper labeling.
- (c) 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:
 - 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 the video is clearly offensive to common sensibilities.
 - 7. Victims of and witnesses to crimes, if the victim or witness has requested not to be identified publicly.
 - 8. Individuals who call 911 and services subscribers whose lines were used to place a call to 911.
 - 9. Mandated reporters as defined by Minn. Stat 626.5575 subd. 16
 - 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.
- (d) Labeling and flagging designations may be amended or corrected based on additional information.

419.5 DEPARTMENT ACCESS AND USE OF BWC DATA

419.5.1 ADMINISTERING ACCESS TO BWC DATA

- (a) Death resulting from force - access to data by survivors and legal counsel.
 - 1. 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 as required by law, must be made available for inspection by any of the following individuals within five days of their request
 - (a) The deceased individual's next of kin.
 - (b) The legal representative of the deceased individual's next of kin.

Minnetonka Police Department

Policy Manual

Body Worn Cameras

- (c) The other parent of the deceased individual's child.
- 2. 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 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.
- (b) Death resulting from force - release of data to the public.
 - 1. 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 asserts in writing that the [public classification would interfere with an ongoing investigation, in which case the data would remain classified by Minnesota Statutes section 13.82, subdivision 7.
- (c) 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.
- (d) BWC Data is Presumptively Private. BWC recordings are classified as private data about the data subject 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 section C below.
 - 3. Some BWC data is classified as public. See section D below.
- (e) 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.
- (f) 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 result 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.

Minnnetonka Police Department

Policy Manual

Body Worn Cameras

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.
- (g) 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 who shall process the request in accordance with the MGDPA and other governing laws. In particular:
1. An individual shall be provided with access and allowed to review recorded BWC data about themselves 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 department 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.
- (h) 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 recordings 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 BWC recordings 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 an officer use of deadly force or other critical incident. In order to preserve the officer's perception and memory at the time of the incident, and to not have their statement influenced by reviewing the BWC recording, the officer should not review the recording prior to giving a statement. After the initial statement, but before the conclusion of the interview, the officer will be given the opportunity to review their BWC recording with the investigator if they so choose. Once the BWC recording has been reviewed, the interview will continue and the officer will acknowledge that they observed the recording and they will be given an opportunity to provide clarification.

Minnetonka Police Department

Policy Manual

Body Worn Cameras

2. Department 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 department to public and social media websites.
3. Department personnel are prohibited from using recording devices to duplicate BWC camera video or audio.
4. Department personnel 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. Employee use of BWC data must comply with applicable city personnel policies..
 - (i) Other Authorized Disclosure of Data. Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, subd. 15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of individual identities that are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying the 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.

419.5.2 DATA SECURITY SAFEGUARDS

- (a) Personally owned devices, including but not limited to computers and mobile devices, shall not be programed or used to access or view department BWC data.
- (b) Employees shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief of police or chief's designee.
- (c) As required by Minn. Stat. §13.825, subd. 9, as may be amended from time to time, this department shall obtain an independent biennial audit of its BWC program.
- (d) Notification will be made to the MN Bureau of Criminal Apprehension within ten days of obtaining new surveillance technology that expands the type or scope of the agency's portable recording system.

419.5.3 DEPARTMENT USE OF DATA

- (a) 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. Supervisors will submit their findings to their division director who in turn will provide the results to the chief of police.

Minnetonka Police Department

Policy Manual

Body Worn Cameras

- (b) In addition, supervisors and other assigned personnel may access BWC data for the purpose of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.
- (c) Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- (d) Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be taken into consideration. Field training officers may utilize BWC data with the recruit officers for the purpose of providing coaching and feedback on the recruit officer's performance.

419.5.4 DATA RETENTION

- (a) All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.
- (b) Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year.
- (c) 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 retentions schedule.
- (d) Data documenting circumstances that have given rise to a formal inquiry against a department employee must be retained according to the department's records 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) 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 that 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 will 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.

419.5.5 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.

Minnetonka Police Department

Policy Manual

Body Worn Cameras

The use of this technology will add a higher level of transparency of the professional services provided by the Minnetonka Police Department. BWCs 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 event, thus it cannot be construed that images are a complete representation of actions by officer and citizens.