

BODY WORN CAMERA	DP
Effective Date:	
Last Revised:	

**Cold Spring Police Department
Use of Body-Worn Cameras Policy**

POLICY:

The Cold Spring Police Department may provide Cold Spring Police Department peace officers with portable recording systems for use during the performance of their duties. The use of portable recording systems is intended to enhance the mission of the Department by accurately capturing contacts between department peace officers and the public. It is the policy to authorize and require the use of department-issued portable recording systems as set forth below, and to administer portable recording systems data as provided by law.

PURPOSE:

The primary purpose of using Cold Spring Police Department-issued portable recording system, worn by Cold Spring Police Department peace officers, is to capture evidence arising from police-citizen encounters. This policy sets forth guidelines governing the use of portable recording systems and administering the data that results. Compliance with these guidelines is mandatory, but it is recognized that Cold Spring Police Department peace officers must also attend to other primary duties and the safety of all concerned and are often forced to make split second judgments, sometimes in circumstances that are tense, uncertain and rapidly evolving. As indicated, this policy governs the use of portable recording systems in the course of official duties.

A: SCOPE:

This policy governs the use of portable recording systems by department peace officers while in the performance of their duties consistent with (Minn. Stat. § 626.8473). This policy does not apply to mobile audio or video recordings made by devices not worn by Cold Spring Police Department peace officers such as in-squad cameras, wiretaps, or concealed listening devices unless captured by a portable recording system. The Chief of Police or a Chief of Police designee may supersede this policy by providing specific instructions for portable recording system's use to individual Cold Spring Police Department peace officers or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. The Chief of Police or designee may also provide specific instructions or standard operating procedures for portable recording system's use to Cold Spring Police Department peace officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals or mental health facilities.

B: DEFINITIONS:

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

- A. **Body-Worn Camera (BWCs)** A portable recording device issued by the Cold Spring Police Department worn by a peace officer that is capable of both video and audio recording of the peace officer's activities and interactions with others or collecting digital multimedia evidence as part of an investigation and as provided in Minn. Stat. 13.825
- B. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- C. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.
- D. **Law enforcement-related information** means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- E. **Evidentiary value** means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.
- F. **General citizen contact** means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.
- G. **Adversarial** means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.
- H. **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.
- I. **Official duties**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

C: COORDINATOR:

The Chief of Police or the authorized designee should designate a coordinator responsible for complying with the following certain legal requirements of portable recording systems under Minn. Stat. § 626.8473 and Minn. Stat. § 13.825):

- A. Establishing an inventory of portable recording systems including:
 - 1. Total number of devices owned or maintained by the Cold Spring Police Department peace officers
 - 2. Daily record of the total number deployed and used by members
 - 3. Total amount of recorded audio and video data collected by the devices and maintained by the Cold Spring Police Department.
- B. Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- C. Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Cold Spring Police Department that expands the type or scope of surveillance capabilities of the Cold Spring Police Department's portable recording systems.
- D. Retaining this policy, together with the Records Retention Schedule.

Cold Spring Police Department Peace Officer- No Privacy Expectation

All recordings made by Cold Spring Police Department peace officers on any BWC at any time or while acting in an official capacity shall remain the property of the Department. Cold Spring Police Department and Cold Spring Police Department peace officers shall have no expectation of privacy or ownership interest in the content of these recordings.

E: 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. 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 report the malfunction to the officer's supervisor. Supervisors shall take prompt action to address malfunctions. If a supervisor is not available notification should still be made and the officer should make reasonable attempts to access a functioning BWC if available.
- C. All Officers working patrol, special details in uniform and traffic duties will wear body-worn cameras unless otherwise granted permission by the department chief

or designee. Non-patrol positions including but not limited to Investigations/Task Force Agents/Officers engaged in training or other details are not required to wear or power on their body-worn cameras while in an authorized detail. If any of the previous mentioned individuals cover a patrol shift or take a uniformed special assignment they shall wear their department issued BWC and follow this policy.

- D. Officers should wear their issued BWCs at the location on their body and in the manner specified in training. A BWC should be worn on the front of the officers person that would likely capture an incident.
- 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 or CAD.
 - 2. 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 CAD. Supervisors shall monitor proper documentation of these reports and initiate any corrective action deemed necessary.

F: RECORDING:

- A. Officers shall activate their BWCs 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. This policy is not intended to describe every possible situation in which the recording system should be used, although there are many situations where its use is appropriate. Officers should activate the recording system any time the member believes it would be appropriate or valuable to record an incident.
- C. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded.
- D. Once activated, the BWC should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The 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 are recommended state the reasons for ceasing the

recording on camera before deactivating their BWC and shall document in a report or CAD. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.

- E. Officers should not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy. The primary purpose of using BWCs is to capture evidence arising from police-citizen encounters and collection of evidence.
- F. 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.

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.

In addition,

- C. Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, BWCs shall be activated as necessary to document any use of force and the basis for it, and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental health issue.
- D. Officers shall use their BWCs and In-Squad video system 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.

G: DOWNLOADING AND LABELING DATA:

- 1) Each officer using a portable recording system is responsible for transferring or assuring the proper transfer of the data from his or her portable recording system to the storage server used by the department 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 portable recording system and assume responsibility for transferring the data from it.
- 2) Cold Spring Police Department peace officers shall label the portable recording system data files at the time of video capture or transfer to storage and should consult with a supervisor if in doubt as to the appropriate labeling. Cold Spring Police Department peace officers should assign as many of the following labels as are applicable to each file:
 - (a) Criminal: The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision above the level of Petty Misdemeanor. The recording has potential evidentiary value for reasons identified by the officer at the time of labeling. Whether or not enforcement action was taken, or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property.
 - (b) Use of Force/Pursuit: Whether or not enforcement action was taken, or an arrest resulted, the event involved the application of force by a law enforcement officer of the Cold Spring Police Department or another agency.
 - (c) Adversarial: The incident involved an adversarial encounter.
 - (d) Training Value: The event was such that it may have value for training.
 - (e) Test/Unintentional Recording: Footage captured through routine function testing or unintentional recording.
 - (f) General: The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts are not evidence.
 - (g) Traffic Citation: The recording documents the issuance of Misdemeanor or Petty Misdemeanor traffic citation with the except of DUI which would consider criminal.
- 3) Labeling and flagging designations may be corrected or amended based on additional information.

Administering Access to BWC Data:

- A. **Data subjects.** Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:
1. Any person or entity whose image or voice is documented in the data.
 2. The officer who collected the data.
 3. Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording.
- B. **BWC data is presumptively private.** BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result:
1. BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.
 2. Some BWC data is classified as confidential (see C. below).
 3. Some BWC data is classified as public (see D. below).
- C. **Confidential data.** BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the “private” classification listed above and the “public” classifications listed below.
- D. **Public data.** The following BWC data is public:
1. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
 2. Data that documents the use of force by a peace officer that results in substantial bodily harm.
 3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted. In addition, any data on undercover officers must be redacted.
 4. Data that are public personnel data under Minn. Stat. § 13.43, subd. 2(5).

However, if another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other classification. For instance, data that

reveals protected identities under Minn. Stat. § 13.82, subd. 17 (e.g., certain victims, witnesses, and others) should not be released even if it would otherwise fit into one of the public categories listed above.

E. Access to BWC data by non-employees. Officers shall refer members of the media or public seeking access to BWC data to the Chief of Police, 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 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. No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes:

1. Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. 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.
2. Agency personnel shall document their reasons for accessing stored BWC data in the manner provided within the database at the time of each access. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes,

including but not limited to uploading BWC data recorded or maintained by this agency to public and social media websites.

3. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.

G. Other authorized disclosures of data. 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 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. Any technology vendor that supports the department BWC program must be successfully screened by the Minnesota Bureau of Criminal Apprehension (BCA) and be in compliance with the FBI's Criminal Justice Information System (CJIS) security policy program and the BCA security policy
- B. Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy.
- C. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.
- D. 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. 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

- B. In addition, supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.
- C. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- D. 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

- A. All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.
- B. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year.
- C. Certain kinds of BWC data must be retained for six years:
 - 1. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review.
 - 2. Data documenting circumstances that have given rise to a formal complaint against an officer.
- D. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.
- E. Subject to Part F (below), all other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
- F. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- G. The department shall maintain an inventory of BWC recordings having evidentiary value.

H. The department will post this policy, together with its Records Retention Schedule, on its website.

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.

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