



White Bear Lake Police Department

POST Mandated Policy # 100-16

Body Worn Camera Use

I. Purpose

The use of Body Worn Cameras (BWC) in law enforcement is relatively new. Their use by White Bear Lake Police Department is intended to enhance the mission of the Department by documenting contacts between members of the Department and the public, while balancing demands of accountability, transparency, and privacy concerns. Digital evidence captured by the portable recording system is not all-inclusive. The system captures a less-broad and less-detailed image than the totality of the human senses. This policy reflects a balance between the desire to establish exacting and detailed requirements and the reality that officers must attend to their primary duties that include the safety of all concerned, often in circumstances that are tense, uncertain, and rapidly evolving.

II. Policy

This policy provides guidelines for the use of Body Worn Cameras by members of the White Bear Lake Police Department while in the performance of their duties (Minn. Stat. § 626.8473)

III. Scope

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of surreptitious recording devices in undercover operations or the use of squad-based (dash-cam) video recorders. The Chief of Police, or Chief's designee, may supersede this policy by providing specific instructions for the use of BWC to individual officers, or providing specific instructions for the use of BWC pertaining to certain events or classes of events, including, but not limited to, political rallies and demonstrations. The Chief of Police, or Chief's 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. Officers deemed to be *Brady-Giglio* impaired must wear and utilize their BWC in all public contacts while serving in their official capacity.

IV. 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 the city of White Bear Lake. See Appendix A.
- C. **Body Worn Cameras** are camera systems as defined in Minn. Stat. §13.825, subd.1(b)(1) as “a device worn by a peace officer that is capable of both video and audio recording of the officer's activities and interactions with others or collecting digital multimedia evidence as part of an investigation.”

- 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. Note: Related “civil or administrative proceeding” refers, for example, to implied consent or forfeiture actions arising from an arrest or prosecution. Nothing in this policy obligates the department to collect or maintain BWC data solely for use in third-party tort litigation.
- 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 result from an officer’s inadvertence or neglect in operating the officer’s BWC, provided that no portion of the resulting recording has evidentiary or administrative 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 department or while in uniform.
- J. **Brady-Giglio Impaired**, means that a police officer has engaged in certain qualifying conduct established by the Ramsey County Attorney that may necessitate disclosure as part of the prosecution or defense of a criminal defendant. A police officer deemed to have a Brady impairment shall have additional BWC use expectations as identified within this policy.
- K. **Critical Incident:** An incident involving any of the following situations occurring in the line of duty:
- The use of Deadly Force by or against a White Bear Lake Police Officer;
 - Death or Great Bodily Harm to an Officer;
 - Death or Great Bodily Harm to a person who is in the custody or control of an Officer;
 - Any action by an Officer that causes or is intended to cause Death or Great Bodily Harm.

V. Use and Documentation

- A. Officers must 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. This provision prohibits officers from using personally owned BWCs, or those provided by private entities that may be contracting for services, while performing agency- authorized law enforcement activities. The use of non-agency equipment is inconsistent with the employing entity's obligation to administer resulting video footage as government data.
- B. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall check their issued BWCs at the beginning of each shift and periodically throughout the shift to ensure the devices are functioning properly, and shall promptly report any malfunctions to a supervisor. If available, a replacement BWC should be used. Department personnel shall not attempt maintenance or repair any component of the BWC.
- C. Officers should wear their issued BWCs in accordance with White Bear Lake Police Department training.
- D. All department personnel issued a BWC are required to wear and use their BWC while working any uniformed assignment. This applies to overtime assignments and uniformed off-duty employment.
- E. Officers must document BWC use and nonuse as follows:
 - 1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report, if an incident report is required to be completed.
 - 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. Supervisors shall review these reports and initiate any corrective action deemed necessary.
- F. Officers wearing a BWC are not required to wear a mobile video recorder microphone.
- G. Department personnel assigned to plain clothes, investigative assignments, undercover assignments, or in a non-uniform administrative role shall not be required to wear a BWC during their day to day duties unless working in uniformed patrol or otherwise required by this policy.
 - 1. Officers working in an undercover capacity shall be required to wear a BWC during pre-planned enforcement activities, including, but not limited to, search warrants or interdiction operations, provided wearing a BWC doesn't compromise the officer's safety nor the operation itself.

VI. General Guidelines for Recording

- A. 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, traffic stops, temporary seizures of motorists and pedestrians, custodial arrests, use of force incidents, 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 (V)(E)(2) (above). However, the BWC should be activated as soon as practical.

- B. This policy is not intended to describe every possible scenarios in which the BWC should be operated. Department personnel should activate the BWC any time personnel believes it would be appropriate or valuable to record an incident. Officers have no affirmative duty to inform people that a BWC is being operated or that they are being recorded. Minn. Stat. § 626A.02
- C. Department personnel may elect to notify people they encounter that a BWC is in operation if they feel it would de-escalate an encounter. If asked, officers are required to provide a factual response about recording.
- D. Once activated, the BWC should continue recording until the conclusion of the incident and until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. A supervisor or investigator having charge of a scene may likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. The purpose of this is to preserve battery life to ensure the ability to continue recording if needed. For purposes of creating a complete record of use, officers are strongly encouraged to 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. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.
- F. Notwithstanding any other provision in this policy, officers shall not use their BWC to record other department 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. The Chief of Police may authorize the use of a BWC as a part of an administrative or internal criminal investigation.
- G. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.
- H. Department personnel assigned to plain clothes, investigative assessments, undercover assignments, or in an ununiformed administrative role shall not be required to wear a BWC during their day-to-day duties unless working in uniformed patrol or otherwise required by this policy.
- I. Department personnel are prohibited from using recording devices to duplicate BWC video or audio in any form, including cell phones or video cameras.
- J. There shall be no audio or video recordings made in any court of law, unless authorized by a judge. [MN Court Rule 4, general rules of practice]

VII. Special Guidelines for Recording

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

- A. To use their BWC to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.

- B. To use their BWC to take recorded statements from persons believed to be victims and witnesses of crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

VIII. Department personnel shall use their BWC and, if so equipped, use their 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. 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 camera to the designated storage device location by the end of each shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer’s BWC and assume responsibility for transferring the data from it.
- B. Officers shall label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. Officers should assign as many of the following labels as are applicable to each file:

Listed below is the list of all classification with definition and retention period.

Classification	Definition	Retention
AOA	Footage captured while assisting other agency that may contain evidence	90 days
Arrest	Custodial Arrest	2 years
Data Subject Request	BWC data requested to be held by subject of data	90 days
DWI	Arrest for DWI related offense	2 years
Flee	Footage of vehicle refusing to stop	2 years
Information	Community contact of interest: Supervisor notification & comments required	90 days
Interview	Interview captured on BWC that does not result in any classification	90 days
Investigative	Community contact of interest; ID poss. suspect; comments required	90 days
Test / Accidental Act.	System check at beginning of duty tour / Accidental activation	30 days
Traffic Citation	Traffic Stop resulting in citation issued	90 days
Use of Force	Event that resulted in Use of Force, but did not result in an arrest incident	2 years
2 Year Retention	Event Forwarded to Investigations	2 years

The retention period will provide department personnel an opportunity to retain the data according to guidelines as set forth in Minnesota Statutes and Ramsey County evidence retention guidelines.

[General Records Retention Schedule for Minnesota Cities](#)

NOTES:

Accidental/Unintentional recorded footage fits within the Records Retention Schedule's classification of "extraneous" recordings, and may accordingly be disposed of at the end of the officer's daily shift.

I. Access to BWC Data

- A. Access to BWC data shall be limited to the employee who captured the video, supervisory personnel and command level personnel, along with others deemed by the Chief of Police to have "need to know" or "need to access," such as case investigators and Records Unit personnel. In addition, BWC video shall be available to approved personnel within the offices of the White Bear Lake City Attorney and Ramsey County Attorney. Prosecutors or their designee may authorize protected access to specific cases with BWC video.
- B. Access to BWC data whether accessed from city or personally owned and approved devices shall be managed in accordance with established city policy.
- C. Officers may access and view stored BWC video only when there is a clear and legitimate business need for doing so.
- D. Officers are prohibited from reviewing BWC footage following a police-citizen critical incident that results in great bodily harm or death to a citizen prior to giving a voluntary statement to the investigating authority. This provision provides the officer opportunity to describe the event exactly as she/he remembers without influence of images captured on video; an individual's recollection of those highly intense moments surround an incident may be different than that which is captured on video. It was concluded that all interests, including the officer's interests are best protected through application of this provision.
- E. Under rare circumstances, when a given fact-set calls for clarification of a critical incident, and with unanimous agreement of the police chief, the investigating authority, and the prosecuting authority, and involved officer may be authorized to review video prior to or during an investigatory interview of an incident.
 - In the event that pre-statement BWC footage is authorized, the police chief shall make pre-statement review authorization and the reason for the authorization publicly available upon request.
- F. Officers may display portions of the BWC footage to witnesses 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.
- G. 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 onto public and social media websites.
- H. Officers shall refer members of the media or public seeking access to BWC data to the City Clerk and/or Chief of Police, who will process the request in accordance with the MGDPA and other governing laws. 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.

- I. Requests made by data subjects to receive BWC footage shall be provided upon request and proper determination of identity as data subject. It shall be the policy of this department to freely provide BWC data to any individual, group, or entity representing the BWC data subject upon receipt of a notarized request from the data subject for the BWC footage.
- J. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

II. Department Use of Data

- A. Supervisors are encouraged to periodically review BWC recordings made by officers to assist them in evaluating the work performance of their subordinates. Minor infractions (not criminal in nature) discovered during routine review of recorded data may be viewed as training opportunities and not as disciplinary action. Should the behavior or action become habitual after being informally addressed, the appropriate disciplinary or corrective action will be taken.
- B. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- C. 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 trainee's performance.
- D. Any department member who is deemed to be non-compliant with or in violation of this policy may be subject to disciplinary action, up to and including, termination and criminal prosecution [Minn. Stat. § 13.09]
- E. The Department will conduct an annual audit to check for the occurrence of unauthorized access to BWC data. Randomized sampling may be utilized for this process, and statistical results of the audit shall be reported to the City Manager and annually reported to the City Council.

III. Data Retention

- A. Evidentiary data shall be retained for the period specified in the General Records Retention Schedule for the City of White Bear Lake. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable retention period.
- B. Accidental recorded footage shall not be retained and is to be purged by a command-level staff member with administrative rights to take such action. Any data manually deleted from the system, excluding demonstration data, shall be communicated to the Chief of Police, including the type of data and reason for deletion. A log shall be maintained of all administratively deleted video.

IV. Data Classification

- A. Outside of active criminal investigations (where data is generally confidential or protected nonpublic) BWC data is private or nonpublic data. Private data is accessible to the data subject.
- B. In accordance with Minn. Stat. §13.825, subd. 2(a) BWC data is public under four [4] criteria:
 - 1. When a peace officer discharges a firearm in the course of duty (but not when discharged for training purposes or incapacitating animals)
 - 2. When use of force by a peace officer results in “substantial bodily harm” as defined in Minn. Stat. § 609.02, subd.7a; “great bodily harm” as defined in Minn. Stat. §609.02, subd. 8; or death.
 - 3. When a data subject requests that the data be made accessible to the public, after redacting undercover officers and those who have not consented to the release.
 - 4. When BWC data documented the basis for discipline is part of personnel data in final disposition of discipline.
- I. **With the approval of the Chief of Police, this department may make otherwise non-public data public data if that could aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest, consistent with Minn. Stat. §13.82, subd. 15.**

Julie Swanson

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Chief of Police

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