

BEMIDJI POLICE DEPARTMENT

BODY-WORN CAMERA (BWC) AND
SQUAD CAR VIDEO CAMERA (SCVC)

POLICY #219

Purpose

This policy sets forth guidelines governing the use of BWCs and SCVCs as well as administering the data that 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. *Graham v. Connor*, 490 U.S. 386, 397 (1989).

Policy

It is the policy of the Bemidji Police Department to authorize and require the use of department-issued BWCs and SCVCs as set forth below, and to administer the resulting data as provided by law. The primary purpose of using body-worn-cameras (BWCs) and Squad car video cameras (SCVCs) is to capture evidence and accurately document police-citizen encounters.

Scope

This policy governs the use of BWCs and SCVCs by Bemidji Police Officers in the course of official duties. The chief or chief's designee may supersede this policy by providing specific instructions for BWC/SCVC 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. This policy does not govern the use of surreptitious recording devices used in investigative or undercover operations.

Definitions

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

- A. **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.
- B. **Body-worn camera (BWC)** refers to a device worn by a peace officer that is capable of audio and video recordings.
- C. **BWC/SCVC Administrator** refers to designated personnel certified or trained in the operational use of BWC/SCVCs, storage and retrieval methods and procedures. The administrator assigns, tracks and maintains BWC/SCVC equipment, oversees needed repairs or replacement of equipment through the vendor, prepares for the biennial audit,

controls user rights and access, and acts as a liaison with the vendor. The administrator is also responsible for the training of law enforcement operators on the use of the BWC/MVR.

- D. **BWC/SCVC Technician** refers to designated personnel certified or trained in the operational use of BWC/SCVCs, storage and retrieval methods and procedures. Responsibilities include; reproduction of recorded data and maintain dissemination records regarding disclosure of data in accordance with MN statutes §13.82 and §13.825. Maintain an inventory of BWC/ SCVC data in accordance with the General Records Retention Schedule for Minnesota Cities (GRRSMC).
- 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. **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.
- H. **Link camera feature** refers to the ability to activate the BWC and SCVC through a single activation trigger.
- I. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- J. **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. In circumstances where an officer is also employed by another agency as a peace officer, the officer is not performing official duties on behalf of this agency while acting in the course and scope of their employment for the other agency.
- K. **Recorded data** refers to all digital multimedia captured by BWC's or SCVC's.
- L. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities (GRRSMC).
- M. **Squad car video camera (SCVC)** refers to a device installed in a vehicle that is capable of audio and video recordings.

- N. **Unintentionally recorded footage** is a video recording which results from an officer's inadvertence or neglect in operating the officer's BWC or SCVC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recordings during a vehicle check, 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.

Use and Documentation

- A. Officers may only use department issued BWC's while engaged in the performance of official duties.
- B. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers may use only department-issued BWCs and SCVCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department. Officers who are engaged in the performance of official duties and have been issued BWCs shall use and operate them in compliance with this policy. This requirement includes situations where the officer is under the command or control of another chief law enforcement officer or federal law enforcement official while performing official duties for this agency.
- C. At the beginning of each shift officers shall log-in to their issued BWCs and SCVCs with a unique ID to conduct a function test and to assure the devices are operating properly. This includes an individual test of each camera and the link cameras feature (when equipped). Officers noting a malfunction, damage, or loss shall promptly report the issue to the officer's supervisor or the officer in charge (OIC) and document the issue by creating a case in the records management system (RMS). Supervisors or OIC's shall take prompt action to address malfunctions and document the steps taken to solve the deficiency in the same RMS case.
- D. Officers should wear their issued BWCs at the location on their body and in the manner specified in training. Officers shall wear their issued BWC at or above the midline of the waist in a position that maximizes the capacity of the device to record video footage of the officer's activities.
- E. Each officer has been issued a body microphone for the SCVC in their assigned squad. With the issuance of BWCs to each patrol officer, use of the SCVC body mic will no longer be required. However, if the officer's BWC is out of service for any reason, officers will be required to switch back to using their assigned body mic.
- F. Officers must document in their reports BWC / SCVC 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 in the RMS.

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 in accordance with the City of Bemidji's policy on discipline.
- G. 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 and SCVCs 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, traffic enforcement, search, seizure, arrest, use of force, adversarial contact, all emergency driving situations, mental health calls, suspicious persons calls 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 (D)(2) (above).
- B. The SCVC's are programmed to automatically activate when the squad's emergency lights are activated. They are also outfitted with a crash sensor which activates the SCVC when the squad is involved in a crash significant enough to trip the sensor.
- C. Officers have discretion to record or not record general citizen contacts.
- D. Officers have no affirmative duty to inform people that a BWC or SCVC is being operated or that the individuals are being recorded.
- E. Once activated, the BWC and/or SCVC 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 or SCVC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.

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

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.
- C. In addition, Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. However, 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 along with any other information having evidentiary value.
- D. Officers *shall* use their *BWCs and SCVCs* 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 and SCVC is responsible for transferring or assuring the proper transfer of the data from his or her camera(s) to the secure storage system 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 SCVC to assume responsibility for transferring the data.

- B. Officers shall label the BWC and SCVC 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.
- C. For each digital recording, officers shall select the proper Event ID from the drop down menu and enter the corresponding Incident Number. The Incident number is the eight (8) digit RMS case file number (e.g., 17000001).
- D. Officers should assign the event ID labels according to training.

Administering Access to BWC AND SCVC Data:

1) Death resulting from force—access to data by survivors and legal counsel.

Notwithstanding any other law or police to the contrary, when an individual dies as a result of force used by an officer of this agency, all BWC data documenting the incident, redacted only as required by law, must be made available for inspection by any of the following individuals within five days of their request:

- a) The deceased individual's next of kin.
- b) The legal representative of the deceased individual's next of kin.
- c) The other parent of the deceased individual's child.

The request may be denied if there is a compelling reason that inspection would interfere with an active investigation. If access is denied, the chief of police 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, subd 7.

2) Death resulting from force—release of data to the public.

When an individual dies as a result of force used by an officer of this agency, all BWC data documenting the incident, redacted only as required by law, must be release 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 remain classified by Minnesota Statutes section 13.82, subd 7.

3) BWC 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.
- 4) **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).
- 5) **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. However, special classifications and access rights are applicable to BWC data documenting incidents where an officer’s use of force results in death (see parts A and B, above).
- 6) **BODY WORN CAMERA Public data.** The following BWC data is public:
 1. Data that record, describe or otherwise document actions and circumstances surrounding the use of force by a peace officer that results in substantial bodily harm, or the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
 2. 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.
 3. 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.

7) **SQUAD CAR VIDEO CAMERA Public data.**

Except for data defined in subdivision 2, 3 and 6 of Minnesota Statute § 13.82, Squad Car Video Camera (SCVC) data is considered criminal investigative data under Minnesota statute 13.82 subdivision 7. As such, all SCVC data is considered confidential or protected nonpublic while the investigation is active. Data that is part of an inactive investigation which are clearly offensive to common sensibilities are classified as private

or nonpublic, provided that the existence of the data is disclosed to any person requesting access to the investigative data.

The following SCVC data is public subject to the timeline identified in the GRRSMC:

- a) Any data created that is not part of an active criminal investigation.
- b) Inactive investigative data unless;
 - i) The release of the data would jeopardize another ongoing investigation.
 - ii) The release of data would reveal the identity of individuals protected under MN statute § 13.82 sub. 17.

8) **Access to BWC and SCVC data by non-employees.** Officers shall refer members of the media or public seeking access to BWC and/or SCVC data to Beltrami County Records Department Supervisor 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 and SCVC 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.

9) **Access by peace officers and law enforcement employees.** No employee may have access to the department's BWC and SCVC data except for legitimate law enforcement or data administration purposes:

1. Officers may access and view stored BWC and SCVC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. However, in the event an officer is involved in a critical incident resulting in substantial bodily harm, great bodily harm or death, viewing of any video prior to giving a statement will be at the discretion of the investigating agency.

2. Access to BCW and SCVC data may be granted to Bemidji Police Detectives for the purpose of investigation. The Chief of Police may allow others access to specific BWC and/or SCVC data as needed.
3. Agency personnel shall document their reasons for accessing stored BWC and SCVC data in the video management system as directed at the time of each access.
4. Agency personnel are prohibited from accessing BWC and/or SCVC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC and SCVC data recorded or maintained by this agency to public and social media websites.
5. Employees seeking access to BWC and SCVC data for non-business reasons may make a request for it in the same manner as any member of the public.

10) **Other authorized disclosures of data.** Officers may display portions of BWC and SCVC 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 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 and SCVC 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 and SCVC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

Data Security Safeguards

- A. BWC and SCVC data will be uploaded through an approved vendor software platform to a secure server maintained by the Beltrami County MIS department or Cloud storage.
- B. Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view agency BWC data.
- C. Officers shall not intentionally record, edit, alter, or erase any BWC or SCVC recording unless otherwise expressly authorized by the chief or the chief's designee. In no case may any recording made with a portable recording system, or, data/metadata related to any recording be edited, altered or erased prior to the expiration of any applicable retention period per Minn. Stat § 626.8473.
- 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. At least once a month, supervisors will randomly review BWC and SCVC usage by each officer they supervise to ensure compliance with this policy and to identify any performance areas in which additional training or guidance is required. This review will include a minimum of four (4) recordings which will be documented in a database maintained by this department.
- B. In addition, supervisors and other assigned personnel may access BWC and SCVC 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 or SCVC 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 and SCVC 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.
 - a. *Recording system data that document a peace officer's use of deadly force must be maintained indefinitely in full unedited and unredacted format per 626.8473.*
- C. Certain kinds of BWC and SCVC data must be retained for seven years:
 - 1. Data that documents the use of 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. Data may be retained for as long as reasonably necessary for possible evidentiary or exculpatory use related to the incident with respect to which the data was collected.

- E. Subject to Part F (below), all other BWC and SCVC 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 and SCVC 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 and SCVC recordings having evidentiary value.
- H. The department will post this policy, together with a link to the General Records Retention Schedule for Minnesota Cities, on its website.

Training and Compliance

- A. Users of the BWC and SCVC systems shall successfully complete an approved course of instruction prior to being deployed. Completion of this training shall be documented by the designated trainer and retained in the employee training file.
- B. Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC and/or SCVC data may constitute misconduct and subject individuals to disciplinary action and/or criminal penalties pursuant to Minn. Stat. § 13.09.

Reference or Revision Date(s):

- A. League of Minnesota Cities Informational Memo – Model Policy, 11/30/2023
- B. League of Minnesota Cities Informational Memo – Use of Body-Worn Cameras. Dated 07/18/2016, 11/30/2023
- C. League of Minnesota Cities Informational Memo – Frequently Asked Questions on Portable recording Systems. Dated 08/8/2016
- D. Minnesota Statutes §13.82, 13.825, 626.8473.
- E. Minnesota Department of Administration – Peace Officer Body-worn Camera Data. Dated 08/04/2016.
- F. REVISION DATE(S): April 26, 2024