

LMCIT MODEL USE OF BODY-WORN CAMERAS POLICY

Before adopting this policy, a city should be familiar with the contents of the LMC Information Memo, "[Use of Body-Worn Cameras](#)".

This model policy is offered in Word format so that re-keying for your own use is minimized. Make sure to customize as prompted in the text and delete comments before finalizing the policy as you wish it to be adopted. Where optional provisions are provided, you must choose one of the options, but choosing "option 1," for example, does not require you to choose "option 1" at every choice point.



This icon marks comments or offers that will help you decide on different possible approaches offered in the policy. Delete them before adopting your customized policy.

[Italic brackets] Text marked this way is a placeholder for agency-specific language.

CITY OF *[CITY NAME]* USE OF BODY-WORN CAMERAS POLICY

Purpose

The use of body-worn cameras (BWCs) in law enforcement is relatively new. The primary purpose of using BWCs is to capture evidence arising from police-citizen encounters. While this technology allows for the collection of valuable information, it opens up many questions about how to balance public demands for accountability and transparency with the privacy concerns of those being recorded. In deciding what to record, this policy also reflects a balance between the desire to establish exacting and detailed requirements and the reality that officers must attend to their primary duties and the safety of all concerned, often in circumstances that are tense, uncertain, and rapidly evolving.



This language acknowledges the competing viewpoints that exist in the current social and political environments regarding BWC use, and the reality that there is not yet any universal consensus for resolving the tension between the goals of accountability and transparency versus the privacy interests of those being recorded. Approaches to BWC use are likely to evolve as we collectively acquire more experience to guide the beneficial use of this technology. The reference to tense and uncertain circumstances is derived from the U.S. Supreme Court's decision in [Graham v. Connor, 490 U.S. 386, 397 \(1989\)](#).

Policy

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

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 or chief's designee may supersede this policy by providing specific instructions for the use of BWCs to individual officers, or providing specific instructions for the

use of BWCs pertaining to certain events or classes of events, including but not limited to political rallies and demonstrations. The chief 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.



Members of the working group expressed that the policy should: (1) provide explicit authority to issue special instructions for BWC use to officers deemed to be *Giglio*-impaired; and (2) ensure that discretion exists to override normal recording guidelines for events where their use might be perceived as a form of political or viewpoint-based surveillance. In addition, members identified a concern that the “general” guidelines for BWC use could be poorly suited to the activities performed by court bailiffs, and that agencies should therefore have express authority to depart from them for special assignments and duties.

Definitions

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

A. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.

B. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.



County agencies will need to modify the policy to meet their own record retention schedule.

C. **Law enforcement-related information** means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.

D. **Evidentiary value** means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.



“[R]elated civil or administrative proceeding” refers, for example, to implied consent or forfeiture actions arising from an arrest or prosecution. The working group sought to clarify that the policy does not obligate agencies to collect or maintain BWC data solely for use in third-party tort litigation.

E. **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.

F. **Adversarial** means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility

toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.



This definition is used to identify conflict situations, since they may evolve into more consequential matters or give rise to complaints against officers. Later provisions in this policy require officers to record adversarial encounters. Some working group members disfavored the term “adversarial,” and agencies may wish to consider other terminology better suited to their communities.

G. Unintentionally recorded footage is a video recording that results from an officer’s inadvertence or neglect in operating the officer’s BWC, provided that no portion of the resulting recording has evidentiary 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.



Unintentionally recorded footage fits within the Records Retention Schedule’s classification of “extraneous” recordings (POL 05830), and may accordingly be disposed of at the end of the officer’s daily shift.

H. Official duties, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

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.



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. See [IPAD Opinion 08-028 \(Sept. 29, 2008\)](#).

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 to make sure the devices are functioning properly and shall promptly report any malfunctions to the officer’s supervisor.

C. Officers should wear their issued BWCs at the location on their body and in the manner specified in training.

D. Officers must document BWC use and nonuse as follows:



Agencies may need to conform the requirements and terminology of parts D(1) and (2) to their records management system or existing business practices. These provisions are recommended to

assure that agencies document and maintain information about: (1) recordings, so that existing ones can be located, linked to a particular event, and disclosed by the prosecution as may be required by criminal discovery obligations; and (2) instances of non-recording, when it would be reasonable to expect BWC footage to exist in the circumstances.

1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report or *[CAD record/other documentation of the event]*.
2. Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report or *[CAD record/other documentation of the event]*. Supervisors shall review these reports and initiate any corrective action deemed necessary.

General Guidelines for Recording

Choose one:

- A. **[Option 1]** 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, *Terry* stops of motorists and pedestrians, arrests, 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 (D)(2) (above).



See LMC Information Memo, "[Use of Body-Worn Cameras](#)," Section II, Deciding what to record. Option 1 requires the recording of all responses to calls for service and law enforcement-related activities.

OR

- A. **[Option 2]** 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 (D)(2) (above).



Option 2 more narrowly defines the class of events to be recorded. As compared with Option 1, this language: (1) eliminates the requirement of recording all responses to calls for service; (2) continues to require the recording of contacts and events having constitutional dimensions and those likely to result in complaints against officers and agencies; and (3) leaves it to officers to identify other circumstances "likely to yield information having evidentiary value."

- B. Officers have discretion to record or not record general citizen contacts.

- C. Officers have no affirmative duty to inform people that a BWC is being operated or that they are being recorded.



Some commentators observe that BWCs have a civilizing effect, and urge that giving an announcement of their use may be beneficial. However, the working group believed that an announcement requirement would distract officers from their duties and could become a debating point in the field during tense and rapidly unfolding enforcement encounters.

- 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. Officers shall state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.

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



This provision is to be read in conjunction with the statement of "Purpose" set forth above: "The primary purpose of using BWCs is to capture evidence arising from police-citizen encounters." The working group considered a variety of scenarios in which it *would be appropriate* for officers to block the recording functionality of their BWCs, such as to avoid capturing irrelevant images of an undressed bystander within a private home; images of a mobile computer screen displaying private or confidential data; or audio of officers conferring about an arrest decision or tactical situation. Momentary blocking may be administratively preferable to turning the camera off and back on, since doing so would result in multiple data files that would each need to be processed.

- 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.

- G. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.

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.



This provision is included to ensure that officers are clearly vested with discretion to use their BWCs to capture information having evidentiary value.

- 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.

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. Officers may activate their BWCs when dealing with individuals believed to be experiencing a mental health crisis or event. BWCs shall be activated as necessary to document any use of force and the basis therefor 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.



The language in parts B and C is for use with Option 2 under General guidelines for recording. This language is unnecessary and confusing for agencies choosing Option 1, since Option 1 already requires the recording of all responses to calls for service and all law enforcement-related encounters and activities.

- D. Officers *[shall]* *[should]* use their *[BWCs]* *[BWCs and 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.



Agencies should consider recording all transports of persons in custody as a safeguard against liability and to document any incriminating statements. The best means of accomplishing this may depend on the technologies the agency is using. While squad-based audio/video systems with rear-facing cameras may be better suited for recording a prisoner's behavior during transport, the officer's BWC may capture more of the officer's interaction with the prisoner at the time he or she is removed from the car and transferred to the custody of another.

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 *[specify data storage location]* 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 the data from it.



Agencies will need to conform this language to their own technologies and business practices. The central idea to express in this language is that the responsibility for handling daily transfers of routine BWC data rests with the officer unless the process is automated. However, when the officer is involved in a significant event that will result in the agency immediately initiating an investigation, then someone else (an appropriate supervisor or investigator) should take custody of the involved officer's BWC. Doing so will safeguard the integrity of the evidence and protect the officer against allegations of mishandling the BWC data.

- 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. *[Include any technology-specific instructions for this process; if metadata is not being stored then the information could be documented in a video log or other record.]* Officers should assign as many of the following labels as are applicable to each file:



See Section III-A, Labeling BWC files in Information Memo, "[Use of Body-Worn Cameras](#)."

1. **Evidence—criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.



The Records Retention Schedule provides that retention periods for cases that have been charged are based on the status of court proceedings. (Code POL 05840.) For uncharged offenses, retention is based on the statute of limitations for filing charges. (Code POL 05880.) Counties will need to consult their own records retention schedule for guidance.

2. **Evidence—force:** Whether or not enforcement action was taken or an arrest resulted, the event involved the application of force by a law enforcement officer of this or another agency.



These recordings must be maintained for six years regardless of the disposition of any related criminal case. (Code POL 05920.) Some working group members expressed a desire for use of a term different than “force” to describe this category. Agencies are free to adopt other terminology as they deem appropriate. Counties will need to consult their own records retention schedule for guidance.

3. **Evidence—property:** 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.



Evidence/property logs are subject to a one-year minimal retention period. (Code POL 03740.) Counties will need to consult their own records retention schedule for guidance.

4. **Evidence—administrative:** The incident involved an adversarial encounter.



The definition of “adversarial encounter” is intended to trigger the recording of interactions thought likely to result in complaints against an officer or the agency. Video determined to have evidentiary value in any internal investigation is subject to a six-year retention period. (Code POL 05880.) An agency could likely determine to purge recordings of adversarial encounters prior to the expiration of six years if no complaint or investigation ever arises. Counties will need to consult their own records retention schedule for guidance.

5. **Evidence—other:** The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.



Retention will depend on the stated reason for maintaining the data. Counties will need to consult their own records retention schedule for guidance.

6. **Training:** The event was such that it may have value for training.



No minimal retention period exists. Counties will need to consult their own records retention schedule for guidance.

7. **Unintentionally recorded footage:** See Definitions, part G. Officers labeling a file as such shall document the events or subject matter that was accidentally recorded on a form or in a manner specified by the department.



These recordings may be purged at the end of the officer's daily shift. (Code POL 05830.) The documentation requirement is intended to maintain integrity of the records system. Counties will need to consult their own records retention schedule for guidance.

8. **Not evidence:** 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.



This category corresponds to two classifications in the Records Retention Schedule that permit disposal of data at the end of the officer's shift. (Codes POL 05830 and POL 05860.) Recordings labeled as "not evidence" will be stored for the minimum retention period specified by the agency. Counties will need to consult their own records retention schedule for guidance.

- 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 public disclosure of information about them. These individuals include:



See Section III-B, Flagging the data in LMC Information Memo, "[Use of Body-Worn Cameras](#)."

1. Victims and alleged victims of criminal sexual conduct.
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 sensitivities.
7. Victims of and witnesses to crimes, if the victim or witness has requested not to be identified publicly.
8. Individuals who called 911, and services subscribers whose lines were used to place a call to the 911 system.
9. Mandated reporters.

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.
 12. Individuals who make complaints about violations with respect to the use of real property.
 13. Officers and employees who are the subject of a complaint related to the events captured on video.
 14. Other individuals whose identities the officer believes may be legally protected from public disclosure.
- D. Labeling and flagging designations may be corrected or amended based on additional information.

Access to BWC Data

- A. *[Specify data safeguards to be used in your agency and in connection with the particular BWC technologies being employed.]* In addition:

Choose one:

- B. **[Option 1]** Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view BWC data.

OR

- B. **[Option 2]** Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy.

Choose one:

- C. **[Option 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.



See Information Memo, "[Use of Body-Worn Cameras](#)", Section III-C, Critical incidents.

OR

- C. **[Option 2]** 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. Except as provided in the critical incident response policy, 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.

- D. 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 limit these displays to protect against the incidental disclosure of individuals whose identities are not public.



[Minn. Stat. § 13.82, subd. 15](#). 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.

- E. Agency personnel shall document their reasons for accessing stored BWC data *[in the manner provided within the database] [or, specify manner of documentation]* 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 onto public and social media websites.
- F. Officers shall refer members of the media or public seeking access to BWC data to *[the responsible authority/data practices designee]*, 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.
- G. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

Agency Use of Data

Choose one:

- A. **[Option 1]** At least once a month, supervisors will randomly review BWC recordings made by each officer to ensure the equipment is operating properly and officers are using the devices appropriately in accordance with policy, and to identify any performance areas in which additional training or guidance is required.



See Information Memo, "[Use of Body-Worn Cameras](#)", Section III-D, Supervisory review.

OR

- A. **[Option 2]** 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.
- B. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.



This language is based on the Peace Officer Discipline Procedures Act, [Minn. Stat. § 626.84, subd. 10.](#)

- C. This agency 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 council] [on the department's website]*.



Given the personal and sensitive nature of some video footage likely to be captured, the working group believed it to be important for agencies to take affirmative steps to publicly demonstrate that personnel are accessing BWC data only for business purposes. Working group members expressed hope that voluntary adoption of these accountability measures will forestall more onerous legislative requirements.

- 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 trainee's performance.

Data Retention

- A. Evidentiary data shall be retained for the period specified in the General Records Retention Schedule for Minnesota Cities. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable retention period.



County agencies will need to consult their own records retention schedule for guidance.

- B. Unintentionally recorded footage shall not be retained.
- C. BWC footage that is classified as non-evidentiary, or becomes classified as non-evidentiary, shall be retained for a minimum of *[XX days]* following the date of capture. If information comes to light indicating that non-evidentiary data has evidentiary value or value for training, it may be reclassified and retained for a longer period.



See, LMC Information Memo, "[Use of Body-Worn Cameras](#)", Section III-E, Data retention.

- D. The department shall maintain an inventory of BWC recordings.



The [General Records Retention Schedule for Minnesota Cities](#) indicates that agencies shall permanently maintain an inventory of evidentiary audio and video recordings. (POL 05810.) Counties will need to consult their own records retention schedule for guidance.

- E. The department will post information on its website concerning retention periods for BWC video data.