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## Body Worn Cameras

### 419.1 PURPOSE AND SCOPE

This policy provides guidelines for the use, management, access, storage, retrieval and retention of Body Worn Camera (BWC) systems by members of this office while in the performance of their duties (Minn. Stat. § 626.8473).

This policy does not apply to mobile audio/video recordings (Policy 417), interviews, or interrogations conducted at any Murray County Sheriff's Office facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices), unless captured by a BWC system.

#### 419.1.1 DEFINITIONS

Definitions related to this policy include:

**Body Worn Camera (BWC)** - A device worn by a member that is capable of both video and audio recording of the member's activities and interactions with others or collecting digital multimedia evidence as part of an investigation and as provided in Minn. Stat. § 13.825.

### 419.2 POLICY

The Murray County Sheriff's Office may provide members with access to BWC's for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Office by accurately capturing audio/video recordings of contacts between members of the Office and the public. These BWC systems will be used securely, efficiently, and in compliance with the law.

### 419.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any office-issued device while acting in an official capacity of this office, regardless of ownership of the device, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 419.4 MEMBER RESPONSIBILITIES

Prior to starting their shift, each member who is assigned or who has access to BWC's will be responsible for making sure that they are equipped with a BWC issued by the Office, and that the BWC is in good working order (Minn. Stat. § 13.825). The member is responsible for the testing procedures to ensure that the BWC is functioning properly. If the BWC is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to their supervisor and obtain a functioning device as soon as reasonably practicable. Members should affix the device to an outer layer of the member's uniform or other apparel in a conspicuous manner at or above the mid-line of the waist or each member must notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. § 626.8473).

Uniformed officers assigned a BWC shall wear and operate the BWC in compliance with this policy while performing law enforcement activities under the command and control of another Chief Law Enforcement Officer or federal law enforcement official.

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Any member assigned to a non-uniformed position may carry an approved BWC at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the BWC in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

In circumstances where the member is wearing a coat, jacket or other type of outerwear the member should make a reasonable effort to not block the BWC from capturing data. In circumstances where the donning of a high visibility vest, or other Personal Protective Equipment (PPE) is necessary, the member shall don the high visibility vest or PPE in a way that does not obscure the BWC if reasonably possible but otherwise should don the high visibility vest or PPE knowing that their BWC video will be diminished or not at all present.

When using a BWC, the assigned member shall record their name, employee number, and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the BWC and related software captures the user's unique identification and the date and time of each recording.

Members should document the existence of a recording in any report or other official record of the contact, including documenting any instance where the BWC malfunctioned or the member deactivated the recording (Minn. Stat. § 626.8473). Members should include the reason for deactivation.

### **419.5 ACTIVATION OF THE AUDIO/VIDEO RECORDER**

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members may activate the BWC any time the member believes it would be appropriate or valuable to record an incident.

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The BWC should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Crimes in progress
- (c) Use of force applications
- (d) Seizures or arrests
- (e) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (f) Self-initiated activity in which a member would normally notify Murray County PSAP
- (g) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

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- (h) Any situation or incident the member, through training and experiences, believes should be audibly and/or visually preserved, unless such recording is otherwise prohibited or would jeopardize the member's safety.

At no time is a member expected to jeopardize his/her safety or the safety of others in order to activate a BWC or change the recording media. Nor is a member expected to activate a BWC if exigent circumstances exist. However, the BWC should be activated in situations described above as soon as reasonably practicable and any exigent circumstances should be noted in the members report.

An inadvertent failure to activate a BWC shall not be a violation of this policy.

### 419.5.1 DISCRETIONARY ACTIVATION

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a BWC or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

### 419.5.2 CESSATION OF RECORDING

Once activated, the BWC should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and witnesses and victims have been interviewed. Recording may be temporarily paused or the audio muted to exchange information with other members, legal counsel, or the lens obstructed to avoid capturing images of undercover officers, informants, or citizens where based on training, experience, and judgment of the member, a recording would not be appropriate or consistent with this policy. Any pausing, muting, or obstruction of the lens will be noted by the member either verbally on the BWC recording or in a written report. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

### 419.5.4 SURREPTITIOUS RECORDING

Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02).

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Members of the Office may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another office member without a court order unless lawfully authorized by the Sheriff or the authorized designee.

### **419.5.4 EXPLOSIVE DEVICE**

Many BWC's, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

### **419.6 PROHIBITED USE OF BWC'S**

Members are prohibited from using office-issued BWC's and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with office-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Commander. Any member who uses a personally owned recorder for office-related activities shall comply with the provisions of this policy, including retention and release requirements and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

### **419.7 RETENTION OF RECORDINGS**

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 90 days. The full, unedited, and un-redacted recording of a peace officer using deadly force shall be maintained indefinitely.

If an individual captured in a recording submits a written request, the recording shall be retained for an additional time period. The Records/ Administrative Assistant, Sheriff or Sheriff Designee should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

Members shall not alter, erase, or destroy any recordings [data or metadata](#) before the end of the applicable records retention period (Minn. Stat. § 626.8473).

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### 419.7.1 ACCESS TO BWC DATA

Except as provided by Minn. Stat. § 13.825, Subd. 2, audio/video recordings are considered private or nonpublic data.

Any person captured in a recording may have access to the recording. If the individual requests a copy of the recording and does not have the consent of other non-law enforcement individuals captured on the recording, the identity of those individuals must be blurred or obscured sufficiently to render the subject unidentifiable prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under Minn. Stat. § 13.82, Subd. 17.

All recorded media, recorded images and audio recording are property of the Office and are government data subject to the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. Dissemination outside of the Office is strictly prohibited except to the extent permitted or required under the MGDPA, the Peace Officer Discipline Procedures Act (Minnesota Statutes Section 626.89), or other applicable law.

(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 member who collected the data
3. Any other member whose voice or image is documented in the data, regardless of whether that member is or can be identified by the recording.

(b) **BWC data are 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, businesses or other entities are presumed to be private or nonpublic data
2. Some BWC data are classified as confidential (see C. below)
3. Some BWC data are classified as public (see D. below)

(c) **Confidential data.** BWC data that are collected or created as part of an active criminal investigation are governed by Minn. Stat. 13.82 and are classified as confidential or protected nonpublic data. This classification takes precedence over the "private" classification listed above and "public" classifications listed below.

(d) **Public data.** The following BWC data are public:

1. Data that document 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 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.

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4. Data that are public personnel data under Minn. Stat. 13.43 subdivision 2(5).

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 reveal protected identifies under Minn. Stat. 13.82 (e.g., certain victims, witnesses and others) or other applicable law 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 data practices designee, who shall process the request in accordance with the MGDPA and other governing laws. In particular:

1. An individual who is the subject of the data has access to the data, including data on other individuals who are the subject of the recording, but access shall not be granted: (a) if the data were 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 subdivision 17.

2. Unless the data are part of an active investigation, an individual data subject may request a copy of the recording, 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 Officer's BWC data except for legitimate law enforcement or data administration purposes. Members may access and view stored BWC video only when there is a business need for doing so, which includes the following:

1. for use when preparing reports or statements or providing testimony;

2. to access proper functioning of BWC systems;

3. by Office investigators assigned to a related criminal investigation, or after approval of a supervisor, for official investigations;

4. by a peace officer who is captured on or referenced in the video or audio data and reviews and uses the data for any purpose relating to his/her employment;

5. when reasonable and necessary for the member to perform the essential functions of his/her job or to defend against allegations of substandard performance or misconduct.

(g) **Other authorized disclosures of data.** Office members may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. 13.82. Members 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,

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for instance, showing only a portion of the video, showing only screen shots, muting the audio or playing 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.
3. with the approval of the Sheriff, the Office may make any data classified as confidential or protected nonpublic pursuant to Minn. Stat. 13.82 subdivision 7 accessible to any person, agency, or the public if the Office determines that the access will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest, consistent with Minn. Stat. 13.82 subdivision 15.

### (h) Use of Force Resulting in Death

**Inspection by Next of Kin, etc.** Pursuant to Minn. Stat. § 626.8473, subd. 3(b)(4), and notwithstanding any law to the contrary, when an individual dies as a result of a use of force by a Member, the Sheriff's Office shall allow the following individuals, upon their request, to inspect all BWC system data, redacted no more than what is required by law, documenting the incident within five days of the request, except as otherwise provided herein:

- (i) the deceased individual's next of kin;
- (ii) the legal representative of the deceased individual's next of kin; and
- (iii) the other parent of the deceased individual's child.

The Office may deny a request if the Office determines that there is a compelling reason that inspection would interfere with an active investigation. If access is denied, the Sheriff shall provide a prompt, written denial to the individual who requested the data with a short description of the compelling reason access was denied and shall provide notice that relief may be sought from the district court pursuant to section 13.82, subd. 7.

**Release to Public.** Pursuant to Minn. Stat. § 626.8473, subd. 3(b)(5), when an individual dies as a result of a use of force by a Member, the Office shall release all BWC system data, redacted no more than what is required by law, documenting the incident no later than 14 days after the incident, unless the Sheriff asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by section [13.82, subdivision 7](#).

### 419.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark the recordings in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

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- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an under-cover officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Minnesota Data Practices Act.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

### **419.9 USE AND DOCUMENTATION**

The Sheriff, authorized designee or Records/Administrative Assistant shall (Minn. Stat. § 626.8473; Minn. Stat. § 13.825):

- (a) Establish procedures for transferring, downloading, tagging, or marking events.
  - (a) Each Deputy using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her BWC to Portable Recording System Server at the end of his or her shift. However, if the deputy 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 deputy's BWC and assume responsibility for transferring the data from it. Deputies shall not go on scheduled days off without first transferring the BWC data.
  - (b) In order to greatly reduce the time investment of labeling each BWC video (data) that is uploaded to the Body Worn CameraServer. Each Deputy is responsible for ensuring that all BWC videos (Data) is correctly labeled after being uploaded. If changes to BWC video (data) labeling is required, the deputy shall make the needed changes. If the deputy wishes to retain a BWV video (data) longer than its scheduled retention period, that deputy should contact their respective supervisor or the Records/Administrative Assistant.
- (b) Establish an inventory of BWCs including:
  1. Total number of devices owned or maintained by the Murray County Sheriff's Office.
  2. Daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used.
  3. Total amount of recorded audio and video data collected by the devices and maintained by the Murray County Sheriff's Office.



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- (c) Prepare the biennial audit required by Minn. Stat. § 13.825, subd. 9.

Ensure that this Portable Audio/Video Recorders Policy is posted on the Office website

### **419.10 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) By a supervisor as part of internal audits and reviews as required by Minn. Stat. § 626.8473.
- (b) Upon approval by a supervisor, by any member of the Office who is participating in an official investigation, such as a personnel complaint, administrative investigation, or criminal investigation.
- (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (d) By media personnel with permission of the Sheriff or the authorized designee.
- (e) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Sheriff or Sheriff Designee prior to public release (see the Records Maintenance and Release Policy). Recordings that are clearly offensive to common sensibilities should not be publicly released unless disclosure is required by law or order of the court (Minn. Stat. § 13.82, Subd. 7; Minn. Stat. § 13.825, Subd. 2).

### **419.11 AGENCY USE OF DATA**

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 Office member misconduct or performance. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline. The BWC is not intended to be used for the purpose of surveillance of members or initiating disciplinary action against a member.

Office members should contact their supervisors to discuss retaining and using BWC data for training purposes. Office members objections to preserving or using certain data for such purposes will be considered on a case-by-case basis. Field training officers (FTOs) may utilize BWC data with trainees for the purpose of providing coaching and feedback on trainees' performance

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### **419.12 ACCOUNTABILITY**

Any member who accesses or releases recordings without authorization may be subject to discipline (see the Standards of Conduct and the Protected Information policies) (Minn. Stat. § 626.8473).