

Body-Worn Cameras and Portable audio/video recorders

430.1 PURPOSE AND SCOPE

This policy will provide the department's licensed personnel, in an enforcement role, with procedures for the use and management of Body Worn Camera (BWC) equipment, and the access, retention, storage, and retrieval of recorded media captured by BWC equipment pursuant to Minn. Stat. S13.825 <https://www.revisor.mn.gov/statutes/cite/13.825>. The purpose of BWC equipment used by licensed Officers, in an enforcement role is to accomplish the following:

- (a) Enhance accountability and public trust by preserving evidence of Officer interaction with citizens.
- (b) Capture digital audio-video evidence for criminal, civil and traffic-related court cases.
- (c) Serve as a training tool for officer safety and best practices in the department.
- (d) To enhance officer safety.

430.1.1 DEFINITIONS

Definitions related to this policy include:

Activation: Any process that causes the BWC system to record audio or video data.

Authorized Personnel: Personnel designated by the Chief or designee, to manage data recorded by the BWC. Such management includes duplication, redaction and lawful destruction of data as required by law and the department's Records Retention Policy.

Body Worn Camera (BWC): A portable recording system, designed to be worn by a member, capable of both video and audio recording of the member's activities, interactions with others and collecting digital multimedia evidence as part of an investigation.

BWC Equipment Check: An audio-video test to ensure that the BWC equipment is in working order. This check shall include a test of the video and microphone recording components, and a date and time check.

BWC Operational Guide: Training manual that outlines the protocol for operating the BWC system /equipment.

BWC Uploading: The act of transferring recorded data from the BWC to the storage server.

Classify: To categorize an event that has been recorded and for which a predetermined retention period has been set.

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Critical Incident: An incident involving any of the following situations occurring in the line of Body Worn Cameras (BWC) duty:

- (a) The use of deadly Force by or against an Officer;
- (b) Any incident that has caused or is likely to have caused great bodily harm or death to any person to include department employees;
- (c) Any incident deemed critical by the Chief or designee.

Deadly Force: As defined by Minn. Stat. 609.066, which states that: "Force Which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm other than a firearm loaded with less-lethal munitions and used by a peace Officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force."

Deactivation: Any process that causes the BWC system to stop recording. Deactivation will be done manually.

Designated Upload Site: Location where Officers complete the task of uploading BWC recordings to a storage server through a PC or docking station.

Great Bodily Harm: Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm.

Portable Recording System Data: Means audio or video data collected by a BWC system.

Pre-Event Recording: Video stored by the BWC system prior to manual activation. This is a configurable feature for the digital BWC system and is preset to record video prior to manual activation. The pre-event recording is included as part of the incident and is viewable during playback.

Record Mode: Any time BWC equipment is recording audio or video as indicated on the LCD monitor, wireless microphone or DVR.

Recorded Media: Audio-video signals recorded on any of several storage devices, including but not limited to, portable digital storage devices (e.g. CD, DVD, hard drive, flash drive)

Redact: Means to blur/distort video and or audio so that the identity of the subject in a recording is obscured sufficiently to render the subject unidentifiable.

430.2 POLICY

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The Buffalo Police Department may provide Officers and members in an enforcement role with access to Body Worn Cameras (BWC) for use during the performance of their duties. The use of recorders is intended to enhance the mission of the department by accurately capturing contacts between members of the department and the public. This policy shall remain in compliance with all applicable laws and statutes including but not limited to MN. Statute 626.8473 <http://www.revisor.mn.gov/statutes/cite/626.8473>

Body worn cameras provide documentary evidence for criminal investigations, internal or administrative investigations and civil litigation. Officers, and members working in an enforcement role for the remainder of this policy, assigned this equipment, shall utilize this device in accordance with the provisions in this policy to maximize the effectiveness of the audio/video documentation to achieve operational objectives and to ensure evidence integrity. Body Worn Cameras may be assigned to any Uniformed Officer or member of the department working in an enforcement role to include: Criminal Investigations Unit, Community Service Officers, or School Resource Officers while engaged in an enforcement action.

430.3 RESPONSIBILITIES

430.3.1 MEMBER PRIVACY EXPECTATION

All recordings made by members acting in an official capacity shall remain the property of the department regardless of whether those recordings were made with department-issued or personally owned recorders. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

430.3.2 MEMBER RESPONSIBILITIES

(a) Members assigned to a BWC shall use it in accordance with department training, department policies, and the manufacturer's recommendations.

(b) Members shall wear the BWC in accordance with department training, using mounting equipment provided by the department. BWC must be worn at or above the mid-line of the waist in a position that maximizes the recording system's capacity to record video footage <https://www.revisor.mn.gov/statutes/cite/626.8473> (Subd. 3 (2)). Any alterations to the prescribed use of this equipment must be approved by the Chief or designee.

(c) Members shall complete department authorized training in the use and operation of the BWCs prior to being assigned a BWC.

(d) Prior to going into service, each member assigned to a BWC will be responsible for testing the unit and making sure that they are equipped with a portable recorder issued by the department and the recorder is in good working order (Minn. Stat. 13 825). Testing should be conducted in a manner that avoids inadvertent activation of other BWCs in the area. Testing includes:

1. The BWC is functional and has an adequate power source;
2. The BWC is connected to the recording equipment;
3. The view of the camera is free of obstruction";
4. The camera lens is operational;
5. The camera is facing the intended direction;
6. The recording mechanism is capturing both the audio and

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video information; 7. The System plays back both audio and Video tracks; and 8. The date and time are accurate.

(e) Members shall notify their immediate supervisor as soon as practical of any missing, damaged, or malfunctioning BWC equipment.

(f) If 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 his/her supervisor and obtain a functioning device as soon as practicable.

(g) Members shall notify their immediate supervisor of any recorded event to be of value for administrative review.

(h) Members shall upload all BWC digital data at the conclusion of their shift, or as soon as practical, utilizing department approved uploading procedures.

(i) Members are encouraged but not required to inform members of the public that they are being recorded. If asked, members should inform those inquiring that audio-video recording equipment is in use. unless doing so would be unsafe for the department member or members of the public.

430.3.3 SUPERVISOR RESPONSIBILITIES

(a) Supervisors shall ensure that members follow established procedures for the use and maintenance of BWC equipment and the completion of BWC documentation. This includes periodic review of BWC recordings to ensure proper procedures are being followed.

(b) Supervisors shall ensure that appropriate measures are taken when informed of any missing, damaged or malfunctioning BWC equipment.

(C) Supervisors shall respond to the scene of an incident that requires immediate retrieval of recordings and ensure appropriate uploading procedures are followed.

1. If an incident occurs that involves substantial or great bodily harm or death, the supervisor shall ensure that members upload the video as soon as practical following any necessary duties as part of the incident.

2. The same requirements shall apply to any incident the supervisor deems may be a high-profile incident.

(d) When conducting use of force reviews, supervisors shall view any pertinent BWC video as part of the review.

430.4 RESTRICTIONS FOR USE OF BODY WORN CAMERAS (BWC)

(a) Members shall not use the BWC for personal use or for any other reason inconsistent with this policy.

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(b) Disabling BWC equipment, intentionally interfering with audio or video recording capabilities, and altering, duplicating, deleting or destroying BWC recordings are prohibited, except by Authorized Personnel in the course and scope of their lawful job duties and in accordance with record retention laws and policies and the provisions of this policy. Only the Chief or designee can designate such authorized Personnel.

(C) Members shall not use department issued BWCs while working for another law enforcement agency or while off-duty.

(d) Members shall not use the BWC outside of department business unless authorized by the Chief or designee, (e) Members will try to avoid recording videos of persons who are nude or when bare human body areas are exposed; (f) The BWC shall not be activated in places such as squad rooms, locker rooms, dressing rooms or restrooms unless the incident is occurring in that location.

430.4.1 EXPLOSIVE DEVICE

Many portable recorders, including BWCs emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

430.4.2 SURREPTITIOUS USE OF THE AUDIO RECORDER

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

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

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

430.5 ACTIVATION OF BWC

This policy is not intended to describe every possible situation in which the BWC should be used, although there are many situations where its use is appropriate. Members assigned a BWC shall activate the BWC in any of the following situations:

(a) All enforcement and investigative contacts including stops and field interview situations. (b) Calls for service (c) When self-initiating a call, as soon as possible but prior to contacting a person or exiting the squad; (d) Prior to taking any law enforcement action; (e) When any situation becomes adversarial; (f)

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When ordered to do so by a supervisor; (g) Prior to any response to resistance. If a BWC is not activated prior to a use of force, it shall be activated as soon as it is safe to do so. (h) Within a health care facility, while performing law enforcement activities.

Anytime a member feels it is appropriate to preserve audio/visual data when taking a statement from a victim, suspect or witness. Members are encouraged but not required to notify a victim or witness of the use of the BWC. If asked, members should inform those inquiring that audio-video recording equipment is in use unless doing so would be unsafe for the department member or members of the public.

Recognizing the unique privacy and security concerns within the jail, courtrooms, and school settings. The BWC should not be activated while conducting routine, non-confrontational business to include but not limited to routine escorts, presence in courtrooms, routine school presence and business, until or unless the situation changes and one of the other situations occurs requiring activation.

The BWC shall not be activated solely for the purpose of surveillance of, or identification of individuals engaged in constitutionally protected activities conducted in a lawful manner. If there is failure to activate the BWC in any of the above situations, the member shall document the reasons for the failure in their report.

At no time is a member of this department expected to jeopardize their safety in order to activate a BWC.

430.5.1 DEACTIVATION OF BODY WORN CAMERA

Once activated, the BWC shall be left in the record mode until the conclusion of the event or as directed by a supervisor.

Notwithstanding the above, once an event has been stabilized and if the member or supervisor reasonably believes there is no longer necessary audio or visual evidence to capture, and that none of the circumstances requiring activation will likely occur, the BWC may be deactivated:

- (a) To protect the identity of a member in an undercover capacity.
- (b) To protect the identity of a confidential reliable informant.
- (c) The incident or event is of such duration that it is necessary to deactivate the BWC to conserve power or storage.
- (d) To discuss issues surrounding the incident/investigation with a supervisor or another member in private.
- (f) When ordered to do so by a supervisor.

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(g) Within a health care facility, to preserve the privacy and dignity of a patient.

If a request is made for a BWC to be turned off by a party being contacted, the member should consider the overall circumstances. For example, a member may choose to turn off the BWC if its operation is inhibiting a victim or witness from giving a statement. Factors to consider may include the type of call and the vulnerability of the victim.

Prior to deactivating a BWC, members shall provide an audible narration prior to deactivation. If a report is prepared, the deactivation and the reason shall also be documented in the report or supplement. If a report is not prepared, the reason for the deactivation shall be documented via added remarks in the Call for Service (CFS) in the Computer Aided Dispatch (CAD).

When employees are inside of the Buffalo Police Department building and the likelihood of contact with the public does not exist, employees may turn their BWC off.

430.5.2 REVIEW OF RECORDINGS

When preparing written reports, members should review their recordings as a resource. 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) upon approval by a supervisor, by any member of the department who is participating in an official investigation, such as a personnel complaint, administrative investigation, or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief or the authorized designee.
- (d) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

430.5.3 RETENTION OF RECORDINGS

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and transfer the file in accordance with current procedure for storing digital files and document the existence of the recording in

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the related case report. Transfers should occur at the end of the member's shift, or any time the storage capacity is nearing its limit.

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.

430.5.4 RETENTION REQUIREMENTS

Portable recordings may be considered criminal investigative data subject to public disclosure (Minn. Stat. S 13.82, Subd. 7). 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.

430.6 BWC SYSTEM DATA CLASSIFICATION AND REQUESTS FOR RECORDINGS

Data collected by a portable recording system are governed by Minn. Stat. 13.825, subd. 2, other applicable state law and provisions of this policy:

All BWC recordings are the property of the department and original BWC system recordings shall remain in the sole custody of the department, unless necessary for the preparation of civil, criminal or administrative matters, used in court as evidence, provided to an expert for analysis, provided to another law enforcement agency in the scope of their investigation, if required to be provided to another by lawful order or as may otherwise be required by the Minnesota Government Data Practices Act or other applicable state law.

(a) All BWC system recordings shall be handled in accordance with the Minnesota Government Data Practices Act, Minn. Stat. 13.825 and Department Policy.

(b) In no event shall any recording be used or shown for the purpose of ridiculing, embarrassing or intimidating any person.

(c) Recorded data may only be replayed or displayed for training purposes with the approval of the Chief or designee. Nothing herein prohibits the Training Unit from having access to BWC recordings for the purpose of training.

(d) Data captured by the BWC may be accessed by authorized Department personnel, provided the access is in the course and scope of the employee's lawful job duties, or used as evidence relating to: 1. Pending administrative, criminal, civil or traffic matters; 2. A complaint of misconduct made against a member; 3. In situations where evidence of officer misconduct is discovered during the course of authorized access (including force reviews);

4. A random or uniform review of BWC data regarding equipment functionality, policy compliance; or 5. Any other purpose authorized under this policy and consistent with State and Federal law.

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- (e) Requests by department personnel for duplication of BWC data for purposes of official department business shall be directed to their unit supervisor.
- (f) Employees are prohibited from using recording devices to duplicate BWC video or audio in any form, including cell phones or video cameras.
- (g) All requests for BWC recordings shall be referred to the Buffalo Police Department's Records Division and will be considered in accordance with the Minnesota Government Data Practices Act, Minn. Stat. 13.825 or other applicable state law.
- (h) Members shall not share BWC recordings with any member of the public or any department employee, unless it is required in the performance of their official duties and consistent with State and Federal law.
- (i) All accesses of the BWC data are documented automatically as part of the BWC equipment technology. Data relating to access will be retained in accordance with the retention schedule for the BWC data that was accessed.
- (j) Any necessary and lawful redaction or other editing of BWC recordings shall only be completed by designated trained staff in the course and scope of their lawful job duties and in accordance with Minn. Stat. 513.825, other applicable state law and the provisions of this policy.
 - 1. The original recording shall remain intact and stored within the authorized storage system in accordance with Department policies, record management, retention schedules and pursuant to Minn. Stat. 513.825.

430.6.1 CRITICAL INCIDENTS INVOLVING BWC

- (a) Involved or witness members shall maintain custody of their BWC equipment until collected by a supervisor.
 - 1. In the event that any members will be photographed as part of the Critical Incident protocol, members shall leave BWC equipment on their uniform until photographs are completed.
 - 2. Each division Lieutenant will be responsible for ensuring any BWC recordings are properly uploaded.
 - 3. Once all uploads are completed, the assigned investigator(s) will be responsible for authorizing release of the BWC equipment to the member or other appropriate personnel.
 - 4. When investigation of the incident is transferred to another law enforcement agency, members will provide their BWC to the investigating agency, as directed by their supervisor.

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(b) In any Critical Incident or use of deadly force, the attorney or legal counsel representing an involved member may view and/or listen to BWC data of the incident only after:

1. The member has met with legal counsel (or union representative), if those entities are requested by the member, and
2. The member and selected legal counsel have met with the investigating entity or designee regarding the process for a critical incident.

(c) Notwithstanding section 13.82 subdivision 7, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency must allow the following individuals, upon their request, to inspect all portable recording system data, redacted no more than what is required by law.

1. The deceased individual's next of kin;
2. The legal representative of the deceased individual's next of kin; and
3. The other parent of the deceased individual's child.

A law enforcement agency may deny a request to inspect portable recording system data under paragraph (b) if the agency determines that there is a compelling reason that inspection would interfere with an active investigation. If the agency denies access under this paragraph, the chief law enforcement officer must provide a prompt, written denial to the individual in paragraph (b) who requested the data with a short description of the compelling reason access was denied and must provide notice that relief may be sought from the district court pursuant to section 13.82 subdivision 7.

430.6.2 ACCOUNTABILITY

Any employee who accesses or releases recordings without authorization may be subject to discipline, including and up to discharge (Minn. Stat. S 626.8473)

430.6.3 ACCESS BY OTHER LAW ENFORCEMENT AGENCIES AND GOVERNMENT ENTITIES

Other law enforcement agencies and government entities (e.g., prosecutors, criminal justice agencies) may obtain access to not public BWC media for a legitimate, specified law enforcement purpose upon written authorization from the Chief of Police or the authorized designee and pursuant to department protocols (Minn. Stat. § 13.825, Subd. 8).

430.6.4 INVENTORY OF PORTABLE RECORDING SYSTEM TECHNOLOGY

Pursuant to Minn. Stat. S 13.825, subd. 5, an agency that uses a portable recording system must maintain the following public data: (a) The total number of recording devices owned or maintained by the department; (b) A daily record of the total number of BWC recording devices actually deployed and used

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by members; (c) The policies and procedures for use of BWC systems required by section 626.8473; and (d) The total amount of recorded audio and video data collected by the BWC system and maintained by the department, the Department's retention schedule for the data, and the procedures for destruction of the data.

430.6.5 BIENNIAL AUDIT

Pursuant to Minn. Stat. 13.825, subd. 9, the Buffalo Police Department must:

- (a) Maintain records showing the date and time BWC system data were collected and the applicable classification of the data;
- (b) Arrange for the biennial audit of the data.
- (c) A report summarizing the results of each audit must be provided to the governing body with jurisdiction over the budget of the law enforcement agency, to the Legislative Commission on Data Practices and Personal Data Privacy, and to the chairs and ranking priority members of the committees of the house of representatives and the senate with jurisdiction over data practices and public safety issues no later than 60 days following completion of the audit.

The results of the audit are public, except for data that are otherwise classified under law.

430.6.6 BWC MEDIA REGARDING USE OF FORCE INCIDENTS RESULTING IN DEATH

When a person dies as a result of the use of force by an officer, the Department shall (Minn. Stat. § 13.825, Subd. 2; Minn. Stat. § 626.8473, Subd. 3):

- a. Allow certain individuals as identified in Minn. Stat. § 13.825, upon request, to inspect all portable recording system data that documents the incident within five days of the request pursuant to the provisions of Minn. Stat. § 13.825.
- b. Release all portable recording system data that documents the incident within 14 days of the incident pursuant to the provisions of Minn. Stat. § 13.825.

430.6.7 DENIALS, REDACTIONS, AND NOTICES

Requests for the release of BWC media shall be processed in accordance with the Records Maintenance and Release Policy. The Office Manager should review BWC media before public release.

The Chief of Police should work with the Custodian of Records when redactions, denials, or notices (e.g., reason for denial, potential penalties for misuse, seeking court relief) are necessary (Minn. Stat. § 13.825, Subd. 2; Minn. Stat. § 13.825, Subd. 4; Minn. Stat. § 626.8473, Subd. 3).

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430.7 TRAINING

Supervisors and members that use the BWC shall successfully complete an instruction and training session on this policy and the use and care of the equipment and media prior to being Supervisors and members that use the BWC shall successfully complete an instruction and training session on this policy and the use and care of the equipment and media prior to being able to deploy the BWC. There shall also be periodic training to ensure continued and effective use of the equipment and established procedures