

BLAINE POLICE DEPARTMENT

GENERAL ORDER: 385.0/DRAFT

EFFECTIVE DATE: DRAFT STATUS

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SUBJECT: BODY WORN CAMERAS

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PURPOSE:

The purpose of this General Order is to establish appropriate guidelines, for the use, management, access, retention, handling of evidence, deleting, storage and retrieval of audio-visual media recording by body worn camera systems and to be in compliance with Minnesota State Statute 13.825, which addresses body worn cameras.

DEFINITIONS:

- A. Recorded Media – means audio-video signals recorded on any of several storage devices, including, but not limited to, analog tape (VHS, SVHS, Hi 8mm), digital tape (DV) or other portable digital storage devices (CD, DVD, hard drive, flash drive, etc.), as well as digital media stored on a local or remote server.
- B. Body Worn Camera (BWC) System - Refers to any system that captures audio and video signals, that is capable of being worn on the body, and includes ancillary support devices, such as mounts, smartphone applications, docking stations, etc.
- C. Supervisor – Licensed peace officers appointed with responsibility to serve as a supervisor.
- D. BWC Technician – Personnel, licensed or civilian, who are trained in their respective areas of expertise in relations to operational use and repair of BWC's, duplicating methods, storage and retrieval methods and procedures, and who, based upon job descriptions, possess a working knowledge of video forensics or evidentiary procedures. The BWC Technician, who may only be responsible for one component of the Body Worn Camera System, includes, but is not limited to: Police Department Property and Evidence Staff; City of Blaine Information/Technology (I/T) Staff; Supervisors; and other qualified outside vendors.

- E. Activate – Any process which causes the BWC system to transmit or store video or audio data outside of the buffering feature.
- F. Law Enforcement Operator (LEO) – Primarily, a licensed peace officer, but on occasion, may be a non-sworn representative of the agency, who would be authorized and assigned to operate a body worn camera.
- G. MGDPA – The Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.

POLICY:

The use of the BWC system provides documentation of law enforcement interaction with the public by providing evidence for the judicial system, internal review, or review by the public through formal request by Blaine Police Department Policy and Procedures. The primary function of the BWC is for officer safety and evidence gathering and not to initiate disciplinary action against the officer, but the data collected on the BWC may be used as a tool in the course of investigating a complaint of misconduct made against a LEO by any person present at the scene of the incident when such complaint could result in additional training, counseling or disciplinary action in accordance with agency policy and state statute.

385.01

PROCEDURES:

A. OPERATIONAL OBJECTIVES:

The agency has adopted the use of BWCs to accomplish the following objectives:

1. To enhance officer safety and public safety.
2. To accurately document statements and events during the course of an incident.
3. It may be beneficial, when practical, to accurately narrate officers' actions, observations or events that the BWC may not specifically record.

4. To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
5. To provide an impartial measurement for self-critique and field evaluation during field training.
6. To preserve visual and audio information for use in current and future investigations.
7. To enhance the public trust by preserving objective factual representation of officer – citizen interactions.
8. To identify training needs.
9. To ensure compliance with state statute regarding the use of BWCs.

B. GENERAL PROCEDURES

It is the responsibility of the individual officer or agency personnel utilizing a BWC to ensure that the audio-video recording equipment is working properly, according to the manufacturer's recommendations, and to refer any malfunctioning equipment, personally assigned or otherwise, to a designated BWC technician.

1. Officers will conduct a check of their BWC at the start of their shift to ensure it is working properly.
2. BWC placement will be in accordance with manufacturer recommendations and in a location so as to best capture video data.
3. All staff assigned to utilize a BWC will be trained in the use and operation of the BWC and BWC data components.
4. The agency will maintain a method for the public to view recorded data as provided by state statute, department policy and under the MGDPA.

5. The Blaine Police Department will ensure officers, investigators, and prosecutors have access to the recorded events according to the Blaine Police Department's Procedures for making the recordings accessible within the criminal justice system.
6. The BWC system shall be configured to minimally record for 30 seconds, prior to activation.
7. The BWC system may not be configured to record audio data occurring prior to activation.

C. OFFICER'S' RESPONSIBILITIES

Inspection and general maintenance of BWC shall be the responsibility of the assigned LEO.

1. BWC equipment shall be operated in accordance with the BWC policy.
2. Prior to beginning each shift, the assigned LEO shall perform an inspection to ensure that the BWC is performing in accordance with the manufacturer's recommendations, covering the following matters:
  - a. The BWC is not damaged.
  - b. The BWC powers on.
  - c. The BWC connects with the smartphone application.
  - d. The view of the camera captures the best field of view.
  - e. Ensures recording mechanism captures audio and video, via a test recording.
  - f. There are no device-reported errors.

3. Malfunctions, damage or theft of BWC and related equipment shall be reported immediately to a supervisor. If no supervisor is working, the officer shall consult a BWC Technician, who can assist with troubleshooting. If the problem cannot be rectified, a supervisor shall be notified.
  - a. In the absence of a supervisor and BWC Technician, the officer will use a spare BWC.
4. Prior to the end of an officer's shift, the officer shall download recorded data using designated download points. Officers are encouraged to try and download BWC data throughout their shifts. For officers assigned a take-home squad car, such as K9 officers, downloading would be done by using the appropriate software and connecting the BWC directly to a computer with the appropriate USB cable.
5. Officers should take reasonable steps necessary to ensure that the BWC maintains adequate battery power.
6. Officers are not obligated to advise a citizen they are being recorded, however, if asked by a citizen, officers should advise the citizen if they are recording or not.
7. Officers are under no obligation to initiate or cease recording at a citizen's request.

385.02

MANDATORY BWC RECORDING

- A. Officers shall activate their BWCs, upon arrival, to an in-progress call for service in which police/citizen interaction would be adversarial or investigative in nature, and during incidents in which an arrest, search or detaining of a person occurs. Officers shall also activate their body cameras during investigative stops of vehicles or persons, including traffic stops. 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 in an ICR.
- B. Any situation or incident that the officer, through training and experience, believes should be audibly and visually recorded.

- C. The purpose of not continually recording throughout a shift is to save on the tremendous amount of space needed to store the recordings. It is important to have a purposeful movement to activate the BWC as opposed to having it accidentally being shut off and thus believe it is recording when it actually is not.

385.03 PROHIBITED BWC RECORDING

- A. Within the Blaine Police Department, City Hall or Public Works facility, unless responding to a call for service which is covered under mandatory recording.
- B. Interactions with other officers and city employees.
- C. Interactions with undercover officers or confidential informants.
- D. During administrative investigations.
- E. Patients in a hospital, unless in custody.
- F. Officers should take due care to not record any other patients within a hospital.
- G. In jails or courthouses.

385.04 DISCRETIONARY RECORDING

Except as noted otherwise, nothing prohibits an officer from stopping a recording or not recording at their discretion. An example of not recording could include an interview of a victim of sexual assault.

385.05 WHEN RECORDING MAY BE STOPPED, PAUSED OR MUTED

Officers may pause, temporarily stop, or mute the recording when discussing issues regarding the situation or investigation in a private manner. Officers will make a verbal note that they are taking such an action prior to pausing or temporarily stopping the recording or muting audio.

385.06 WHEN RECORDING MAY BE CEASED

Officers may cease recording under the following circumstances.

- A. At completion or clearing of a call for service.

- B. During an arrest, when subject is secured in the rear seat of a squad car and the in-car squad video and audio is still recording.
- C. When taking a perimeter position until such a time that a mandatory recording is required.

385.07

REQUIREMENTS OF OFFICERS IN A NON-PATROL CAPACITY

Definition to include but not limited to:

Investigators, School Resource Officers, Directed Operations Group and Drug Task Force and Uniformed Command Staff.

- A. When performing actions covered in 385.02 and there is adequate time to retrieve and don the BWC.
- B. When clearly identifiable as a police officer, wearing attire that would leave anyone to believe they are an officer (i.e., raid vest/jacket, full uniform, etc.).
- C. Generally, officers in an undercover capacity are not required to wear a BWC. In an effort to protect the identity of undercover officers, in the course of executing a search warrant, after the initial entry of undercover officers and the scene has been secured, BWC may be deactivated.
  - 1. Officers assigned to light duty
    - a. Officers assigned to light duty will continue to use their BWC as outlined in 385.02.
  - 2. Uniformed Overtime Assignment

Officers working overtime assignments in a uniform capacity will be required to wear BWC and activate it for any situations covered under 385.02.
  - 3. Formal Details
    - a. Officers attending meetings, ceremonies, funerals or other formal events will not be required to wear a BWC.

4. Court
  - a. Officers attending court will not be required to wear a BWC.
5. Training
  - a. Officers attending training will not be required to wear a BWC.

385.08

DATA HANDLING PROTOCOLS

- A. BWC recorded data may be stored locally or remotely, pursuant to current department contracts, infrastructure or other needs of the department.
- B. Law enforcement operators shall not erase, alter, reuse, modify or tamper with BWC recordings. Only a Department approved designee, typically a Property Evidence Tech, may erase recordings and may only do so pursuant to the provisions of this policy.
- C. BWC recordings are considered private data and may be considered evidence. Evidence personnel will ensure that the recording is retained in accordance with Department Policy and Procedures and records retention schedules. BWC recordings may carry a different data classification, as described in §13.825.
  1. The discharge of a firearm by a peace officer in the course of duty, if a notice is required under section 626.553, subdivision 2, or the use of force by a peace officer that results in substantial bodily harm, as defined in section 609.02, subdivision 7a, are public.
  2. Data is public if a subject of the data requests it be made accessible to the public, except that, if practicable, (i) data on a subject who is not a peace officer and who does not consent to the release must be redacted, and (ii) data on a peace officer whose identity is protected under section 13.82, subdivision 17, clause (a), must be redacted. BWC data of criminal investigations, however, is defined below.
  3. BWC data which is active criminal investigative data are governed by section 13.82, subdivision 7, and portable recording system data



that are inactive criminal investigative data are governed by this section. These data are considered confidential/protected-nonpublic.

4. BWC data which is public personnel data under section 13.43, subdivision 2, clause (5), are public. This applies to the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body.
  5. Data which is not public data under other provisions of §13.825 retains that classification.
  6. The Blaine Police Department may redact or withhold access to portions of data which are public under this subdivision if those portions of data are clearly offensive to common sensibilities.
- D. Any data recorded by the body worn camera must minimally be retained for 90 days, including test data, etc.
- E. All video will be appropriately classified by the officer with the classification and, if applicable, the case number.
- F. Pursuant to section 385.08, any redaction of data on individuals will be completed by the evidence staff.
1. Evidence staff will redact the identity of non-consenting subjects and undercover officers, per §13.825, subd. 2(a)(2); subd. 4

CLASSIFICATION	RETENTION PERIOD
USE OF FORCE (above escort)	6 YEARS
ARREST/CHARGE	2 YEARS
PURSUIT	2 YEARS
TRANSPORT	180 DAYS
TRAFFIC STOP	180 DAYS
VEHICLE SEARCH	180 DAYS
OTHER	90 DAYS
TEST	90 DAYS
LONG TERM STORAGE	MANUAL DELETE/Evidence Tech

385.09

ACCESS AND REVIEW OF DATA

- A. Officers may have access to review the recordings when preparing written reports or statements of events to help ensure accuracy and consistency of accounts. This may be done for any non-critical incidents. In the event of a critical incident (i.e. officer involved shooting) as part of the overall statement, the officer will provide the investigating agency a statement, then have an opportunity to review the data and continue with the statement.
- B. Officers who have collected the recorded data, along with any officers who may be documented in the data, maintain the right to access and review the data.
- C. Body worn camera video may not be released by an officer, regardless if they are a subject of the data. The Chief or Departments Responsible Authority may release a video to the public under normal practice for data requests.
- D. Any other subject of the data, such as private citizens, may review BWC footage in accordance with the Departments normal request procedures and MGDPA.

- E. Except for defense in any documented criminal or civil action, BWC data will not be for personal use by any Department employee.
- F. When a video is opened for a review by anyone, they must note the reason for the review in the Notes area for tracking purposes.
- G. Authorization and training will be given to the Departments prosecutors (i.e. City, County Attorney and AG's Office) to be able to log in and view video from a specific case for charging and prosecution purposes. They will not be given access to download any video and a copy will still need to be requested with current procedures.

385.10

SUPERVISOR'S RESPONSIBILITIES:

- A. When an incident arises that requires the immediate retrieval of the recorded media (i.e., serious crime scenes, agency shootings, agency involved crashes, etc.) the appropriate supervisor may obtain the BWC footage for downloading and review.
- B. Supervisors who are informed or otherwise become aware of malfunctioning equipment will ensure compliance with this policy.
- C. If so equipped, supervisors may activate the BWC system remotely to monitor a developing situation such as a chase, riot, or other event which threatens public safety, officer safety, or both when the purpose is to obtain tactical information to assist in managing the event. Supervisors shall not remotely activate the BWC system for the purpose of surveillance regarding the conversations or actions of an officer. When a BWC is remotely accessed, that BWC operator assigned with that unit will be notified of the remote viewing as soon as tactically possible and reasonably feasible.

385.11

EVIDENCE TECHNICIAN'S RESPONSIBILITIES:

BWC technician(s) shall be responsible for the following:

- A. Long- term storage considerations of media deemed to be of evidentiary value consistent with the agency's evidence storage protocols and retention schedule.
- B. When a request is made by department personnel for copy of an event, evidence personnel will make a copy of the event and normal policies and procedures will be followed in releasing such evidence.
- C. When a request is made by a court or prosecuting authority for copy of an event, evidence personnel will make a copy of the event and normal policies and procedures will be followed in releasing such evidence. This section shall only apply to requests of court and prosecuting authorities who do not have access to recordings, or instances where it is the responsibility of the department to produce a copy.

385.12

MEDIA ACCESS:

- A. All recording media, recorded images and audio recordings are the property of the Blaine Police Department and subject to the provisions of the MGDPA. Dissemination is strictly prohibited except to the extent permitted under the MGDPA, Peace Officer Disciplinary Procedures Act or other applicable law and without written authorization of the Chief of Police or his or her designee.
- B. At the conclusion of the trial proceedings or as otherwise authorized by the prosecuting authority, or the court, for which the media was required, all copies shall be stored or destroyed in accordance with the Department's Policy on Property and Evidence and MN §13.825.
- D. An officer who is captured on or referenced in the video or audio data may review such data and use the data for any purpose relating to his or her employment.

385.13

HANDLING OF EVIDENCE:

- A. The BWC equipment will be used in the prosecution of those who violate the law, and to provide objective information concerning police/citizen contacts.
- B. Recordings containing data which must be retained in anticipation of pending civil action or are collected as part of an active investigation for the commencement or defense of a pending civil action against the state shall continue to be in the control of the agency, in conjunction with the appropriate legal representative.
- C. When a recording contains evidence for a case which is being investigated by another agency, that agency will be provided a duplicate copy of the recording with the approval of the Chief Law Enforcement Officer or his/her designee

385.14

AUDITS

- A. The department shall arrange for an independent, biennial audit of the data to determine whether data are appropriately classified according to this section, how the data are used, and whether the data are destroyed as required under this section, and to verify compliance with MN §13.825 subdivisions 7 and 8.
- B. A report summarizing the results of each audit must be provided to the governing body with jurisdiction (the Blaine City Council) over the budget of the law enforcement agency and to the Legislative Commission on Data Practices and Personal Data Privacy no later than 60 days following completion of the audit.

385.15

VIOLATIONS

It shall be the policy of the Blaine Police Department to recognize two primary causes for disciplinary action and possible removal of the employee. These causes are Substandard performance and/or misconduct.

- A. Minnesota Statute Section 13.09 states, “Any person who willfully violates provisions of this chapter (Government Data Practices Act) is guilty of a misdemeanor. “Willful violations of the chapter by any public

employee constitutes just cause for suspension without pay or dismissal of the public employee.”

- B. Department staff must pay special attention to the provisions contained in General Order 385.0 and Minnesota Statute 13, “Government Data Practices Act”. Violations of either General Order 385.0 or Minnesota Statute 13 may result in disciplinary action in accordance with Department Rules and Regulations.

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