

Rampart Defense, LLC



INDEPENDENT AUDITOR'S REPORT

Frazee Police Department Body-Worn Camera Program



OCTOBER 21, 2022
RAMPART DEFENSE LLC
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Audit Overview and Recommendations

Dear Frazee City Council and Chief Trieglaff:

We have audited the body-worn camera (BWC) program of the Frazee Police Department (FPD) for the three-year period ended 3/06/2022. Minnesota Statute §13.825 mandates that any law enforcement agency operating a portable recording system (PRS)¹ program obtain an independent, biennial audit of its program. This program and its associated data are the responsibility of the Frazee Police Department. Our responsibility is to express an opinion on the operations of this program based on our audit.

On July 11, 2022, Rampart Defense LLC (Rampart) met with Chief Tyler Trieglaff, who provided information about FPD's BWC program policies, procedures and operations. As part of the audit, Rampart reviewed those policies, procedures and operations for compliance with Minnesota Statute §626.8473, which sets forth the requirements for creating and implementing a BWC program, and Minnesota Statute §13.825, which governs the operation of BWC programs. In addition, Rampart also conducted a sampling of BWC data to verify FPD's recordkeeping.

The purpose of this report is to provide an overview of this audit, and to provide recommendations to improve the FPD BWC program and enhance compliance with statutory requirements.

FPD BWC Program Implementation and Authorization

Effective August 1, 2016, Minnesota Statute §626.8473 Subd. 2 requires that:

A local law enforcement agency must provide an opportunity for public comment before it purchases or implements a portable recording system. At a minimum, the agency must accept public comments submitted electronically or by mail, and the governing body with jurisdiction over the budget of the law enforcement agency must provide an opportunity for public comment at a regularly-scheduled meeting.

In addition, §626.8473 Subd. 3(a) requires that the law enforcement agency establish and enforce a written policy governing the use of its portable recording system, and states "[t]he written policy must be posted on the agency's Web site, if the agency has a Web site."

Chief Trieglaff provided documentation showing that the public notification, comment and meeting requirements had been satisfied prior to the implementation of FPD's BWC program on March 7, 2019. Specifically, Chief Trieglaff furnished a copy of the minutes of the January 14, 2019, Frazee City Council meeting. The minutes noted that the meeting was opened for a public hearing to present and discuss the proposed BWC program. There were no questions or comments regarding the proposal. After the public hearing was closed, the city council voted to authorize the purchase of a body-worn camera

¹ It should be noted that Minnesota statute uses the broader term "portable recording system" (PRS), which includes body-worn cameras. Because body-worn cameras are the only type of portable recording system employed by FPD, these terms may be used interchangeably in this report.

system for FPD. The notes indicated council members had questions about the BWC policy itself and postponed consideration until the following month's meeting. Chief Trieglaff also provided a copy of the February 11, 2019, Frazee City Council Meeting Minutes, which indicated that the city council approved the BWC policy with minor adjustments. Copies of these documents have been retained in Rampart's audit files.

The Rampart auditor verified that there was a working link to the BWC policy on the FPD website at the time of the audit.

FPD BWC WRITTEN POLICY

As part of this audit, we reviewed FPD's BWC policy, a copy of which is attached to this report as Appendix A.

Minnesota Statute §626.8473 Subd. 3(b) requires a written BWC policy to incorporate the following, at a minimum:

1. The requirements of section 13.825 and other data classifications, access procedures, retention policies, and data safeguards that, at a minimum, meet the requirements of chapter 13 and other applicable law;
2. Procedures for testing the portable recording system to ensure adequate functioning;
3. Procedures to address a system malfunction or failure, including requirements for documentation by the officer using the system at the time of a malfunction or failure;
4. Circumstances where recording is mandatory, prohibited, or at the discretion of the officer using the system;
5. Circumstances under which a data subject must be given notice of a recording;
6. Circumstances under which a recording may be ended while an investigation, response, or incident is ongoing;
7. Procedures for the secure storage of portable recording system data and the creation of backup copies of the data; and
8. Procedures to ensure compliance and address violations of the policy, which must include, at a minimum, supervisory or internal audits and reviews, and the employee discipline standards for unauthorized access to data contained in section 13.09.

Due to their complexity and interrelatedness, clauses 1 and 7 are discussed separately below. Clause 8 is also discussed separately.

In our opinion, the FPD BWC policy is compliant with respect to clauses 2 – 6.

FPD BWC Data Retention

FPD's data retention policy states that "[e]videntiary 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." The policy further states that "BWC footage that is classified as non-evidentiary, or becomes classified as non-

evidentiary, shall be retained for a minimum of 90 days following the date of capture...” and also allows for the extended retention of BWC footage for training purposes.

The Data Retention section of FPD’s BWC policy states that “[u]nintentionally recorded footage shall not be retained,” while the Downloading and Data Labeling section of the policy states that “[f]ootage captured through unintentional activation will be deleted at the end of the officer shift.”

Minnesota Statute §13.825 Subd. 3(a) specifies a minimum retention period of 90 days for BWC data that are not active or inactive criminal investigative data, and which are not subject to a longer retention period specified in §13.825 Subd. 3(b). Because there is no exception for accidental or test recordings, these must also be retained for a minimum of 90 days.

In our opinion, the provisions of FPD’s BWC policy directing the deletion of unintentional recordings without a 90-day retention period are not compliant with Minnesota Statute §13.825 Subd. 3(a).

Prior to the issuance of this report, Chief Trieglaff advised us that FPD had revised its BWC policy to mandate a 90-day retention period for unintentional recordings. Rampart verified that under the heading of “Unintentional Recording,” the revised policy states that: “[f]ootage captured through unintentional activation will be deleted after a 90-day retention.” Rampart also verified that there is an active link to this revised policy on the FPD website as of the date of this report.

FPD employs six (6) Axon body-worn cameras and utilizes Axon’s Cloud Service storage (Evidence.com) and manages BWC data retention through automated retention settings in Axon’s video management software. The retention period for each video is determined by the data classification assigned at the time of upload; however, this retention period can be adjusted as needed.

FPD’s BWC policy requires that each officer transfer data from his or her body-worn camera to Evidence.com by the end of each shift, and also requires that the officer assign the appropriate label or labels to each file to identify the nature of the data. These labels then determine the appropriate retention period for each file.

In our opinion, FPD’s written BWC policy as revised is compliant with respect to applicable data retention requirements.

FPD BWC Data Destruction

As discussed above, FPD utilizes Axon’s Evidence.com for storage, with retention periods determined based on the classification assigned to BWC data. Axon certifies that its Cloud Service is compliant with the Federal Bureau of Investigation’s Criminal Justice Information System Security Division Policy as required by Minnesota Statute §13.825 Subd. 11(b). Data destruction is achieved through automated deletion and overwriting, with storage devices sanitized (overwritten three or more times or degaussed) or physically destroyed upon being removed from service.

In our opinion, FPD’s written BWC policy is compliant with respect to the applicable data destruction requirements.

FPD BWC Data Access

Any request for access to BWC data by data subjects or the media would be made to Frazee Police Department Records Division, which is responsible for reviewing and fulfilling each request in accordance with the provisions of §13.825 Subd. 4(b).

FPD BWC data is shared with other law enforcement agencies for evidentiary purposes only. Requests may be made to any on-duty officer, but must be approved by Chief Trieglaff prior to fulfillment. BWC data sharing is primarily through an expiring internet link delivered via email; however, FPD has also provided BWC data on physical media, including optical discs and USB drives, when needed. Existing verbal agreements between FPD and other area law enforcement agencies address data classification, destruction and security requirements, as specified in §13.825 Subd. 8(b).

We recommend that FPD obtain a written acknowledgement from any requesting law enforcement agency that any BWC data obtained from FPD will be managed by that agency in compliance with the requirements of §13.825 Subd. 7 and 8. A copy of each written acknowledgment should be maintained on file.

In our opinion, FPD's written BWC policy is compliant with respect to the applicable data access requirements.

FPD BWC Data Classification

FPD follows the Minnesota Government Data Practices Act in determining BWC data classifications, and the written BWC policy incorporates references to specific requirements set forth in Minnesota Statute §13.825.

In our opinion, this section of the policy is compliant with respect to the applicable data classification requirements.

FPD BWC Internal Compliance Verification

FPD's BWC policy states that "[s]upervisors and other assigned personnel may access BWC data for purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance."

Minnesota Statute §626.8473 Subd. 3(b)(8) requires that a written policy incorporate "procedures to ensure compliance and address violations of the policy, which must include, at a minimum, supervisory or internal audits and reviews, and the employee discipline standards for unauthorized access to data..."

Chief Trieglaff advised us that he does conduct random reviews of BWC data as required; however, these reviews are not mandated in the written BWC policy, nor does the policy address disciplinary standards for unauthorized access to BWC data. In our opinion, these are mandatory elements for a written policy under the internal compliance verification and disciplinary requirements specified in §626.8473 Subd. 8.

Prior to the issuance of this report, Chief Trieglaff advised us that FPD had revised its BWC policy to mandate supervisory review of BWC usage, and to address disciplinary standards for unauthorized access to BWC data. Specifically, under the “Agency Use of Data” section, the revised policy states that: “[s]upervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. § 13.09.”

Rampart also verified that there is an active link to this revised policy on the FPD website as of the date of this report.

In our opinion, FPD’s written BWC policy as revised is compliant with respect to applicable internal compliance verification requirements.

FPD BWC Program and Inventory

FPD currently possesses six (6) Axon 3 body-worn cameras.

The FPD BWC policy identifies those circumstances in which officers are expected to activate their body-worn cameras, as well as circumstances in which they are prohibited from activating their body-worn cameras. The policy also provides guidance for those circumstances in which BWC activation is deemed discretionary.

While FPD does not maintain a separate log of BWC deployment or use, Chief Trieglaff advised us that because deployment can be determined based on a review of FPD payroll records. Actual BWC use would be determined based on the creation of BWC data.

As of 7/11/2022, FPD maintained 2,790 BWC data files (videos).

FPD BWC Physical, Technological and Procedural Safeguards

FPD BWC data are initially recorded to an internal hard drive in each officer’s BWC. Those files are then transferred to Axon’s Evidence.com cloud service via upload from the docking station in the squad room at the police department. As discussed above, Evidence.com meets the FBI CJIS Security Division Policy as required by Minnesota Statute §13.825 Subd. 11(b).

Officers have view-only access to their own data for report writing, trial preparation, data administration, investigatory purposes and other legitimate law enforcement purposes through Evidence.com.

As noted above, requests by other law enforcement agencies for FPD BWC data must be approved by Chief Trieglaff and are fulfilled primarily via expiring email link. A similar method is employed to submit FPD BWC data to the Becker County Attorney’s Office.

Enhanced Surveillance Technology

FPD currently employs a BWC with only standard audio/video recording capabilities. They have no plans at this time to add enhanced BWC surveillance capabilities, such as thermal or night vision, or to otherwise expand the type or scope of their BWC technology.

If FPD should obtain such enhanced technology in the future, Minnesota Statute §13.825 Subd. 10 requires notice to the Minnesota Bureau of Criminal Apprehension within 10 days. This notice must include a description of the technology and its surveillance capability and intended uses.

Data Sampling

Rampart selected a random sample of 188 calls for service (CFS) from which to review any available BWC recordings. It should be noted that not every call will result in an officer activating his or her BWC. For example, an officer who responds to a driving complaint but is unable to locate the suspect vehicle would be unlikely to activate his or her BWC. It should also be noted that because this audit covers a period of three years, while most BWC data is only required to be retained for 90 days, there is a significant likelihood that the sample population will include ICRs for which BWC data was created, but which has since been deleted due to the expiration of the retention period. The auditor reviewed the retained BWC videos to verify that this data was accurately documented in FPD records.

Expanded Audit Period

As part of this audit, Rampart learned FPD had not obtained an independent audit since the inception of its BWC program on March 7, 2019. After consulting with Chief Trieglaff, Rampart agreed to expand the scope of its audit to cover the three-year period ending March 6, 2022, as doing so will allow FPD to establish a biennial audit schedule going forward.

Audit Conclusions

As discussed in the body of this report, Rampart auditors identified the following three areas of Frazee Police Department's written BWC policy as non-compliant at the time of the audit:

- Absence of a minimum 90-day retention period for unintentional BWC recordings.
- Absence of mandatory supervisory review of BWC usage (while Chief Trieglaff advised that such reviews were, in fact, conducted, they were not mandated in the written BWC policy).
- Absence of employee disciplinary standards for unauthorized access to BWC data.

As also discussed above, prior to the issuance of this report, Frazee Police Department revised its written BWC policy to address each of these areas. This revised policy is accessible via FPD's website and a copy is also attached to this report as Appendix B.

In our opinion, as of the date of this report, the Frazee Police Department's Body-Worn Camera Program is substantially compliant with Minnesota Statutes §13.825 and §626.8473.

Rampart Defense, LLC

A handwritten signature in black ink, appearing to read 'Daniel E. Gazelka', written over a horizontal line.

Daniel E. Gazelka

Rampart Defense LLC

10/21/2022

APPENDIX A:

1 Frazee Body Worn Cameras Policy – January 2019 City of Frazee, Minnesota Police Department Use of Body-Worn Cameras Policy January 2019 I. 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. II. Policy It is the policy of this department to authorize and require the use of department-issued BWCs as set forth below. III. 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 squadbased (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. IV. 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. 2 Frazee Body Worn Cameras Policy – January 2019 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. 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 encounter 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. G. Unintentional Recording 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. H. Traffic/Pedestrian Stop, for purposes of this policy, means that the officer is on duty and performing

authorized law enforcement services on behalf of this agency, and has undertaken a stop of this nature.

V. 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.

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: 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 3 Frazee Body Worn Cameras Policy – January 2019 an incident report or CAD. Supervisors shall review these reports and initiate any corrective action deemed necessary.

VI. General Guidelines for Recording

A. Officers shall activate their BWCs when anticipating that they will be 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.

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.

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. Officers may when deemed necessary, mute the audio for the purposes of sensitive conversations with other officers.

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.

VII. Special Guidelines for Recording

Officers may, in the exercise of sound discretion, determine:

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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.

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. D. Officers should use their BWCs and or 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. VIII. 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 by docking the unit at 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. 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. 1. Evidentiary: The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision above the level of Petty Misdemeanor. The recording has potential evidentiary value for reasons identified by the officer at the time of labeling. 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. 2. Use of Force/Pursuit: 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. 3. Adversarial: The incident involved an adversarial encounter. 4. Training Value: The event was such that it may have value for training. 5. Unintentional Recording: Footage captured through unintentional activation will be deleted at the end of the officer shift. 5 Frazee Body Worn Cameras Policy – January 2019 6. General: 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. 7. Traffic/Petty Citation: The recording documents the issuance of a Petty Misdemeanor violation. 8. Traffic/Pedestrian Stop: The recording documents the undertaking of a pedestrian or traffic stop no resulting in charges. C. Labeling and flagging designations may be corrected or amended based on additional information. IIX. Access to BWC Data A. All safeguards in place by Evidence.com will meet or exceed required security parameters. In addition: B. Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy. C. 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. 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. E. 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 Frazee Police Department Records Division, 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. H. Prior to release of data, the Records Division shall determine if a file is appropriate for release if it contains subjects who may have

rights under the MGDPA limiting public disclosure of information about them. These individuals include:

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.
- 6 Frazee Body Worn Cameras Policy – January 2019
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.

IX. Agency Use of Data

A. 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.

C. 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.

X. 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.

B. Unintentionally recorded footage shall not be retained.

C. BWC footage that is classified as non-evidentiary, or becomes classified as nonevidentiary, shall be retained for a minimum of 90 days following the date of capture. If information comes to light 7 Frazee Body Worn Cameras Policy – January 2019 indicating that non-evidentiary data has evidentiary value or value for training, it may be reclassified and retained for a longer period.

D. The department shall maintain an inventory of BWC recordings. Adopted – January 14, 2019

APPENDIX B:

1 Frazee Body Worn Cameras Policy – January 2019 City of Frazee, Minnesota Police Department Use of Body-Worn Cameras Policy January 2019 I. 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. II. Policy It is the policy of this department to authorize and require the use of department-issued BWCs as set forth below. III. 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 squadbased (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. IV. 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. 2 Frazee Body Worn Cameras Policy – January 2019 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. 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 encounter 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. G. Unintentional Recording 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. H.

Traffic/Pedestrian Stop, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency, and has undertaken a stop of this nature.

V. 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.

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: 3 Frazee Body Worn Cameras Policy – January 2019 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. Supervisors shall review these reports and initiate any corrective action deemed necessary.

VI. General Guidelines for Recording

A. Officers shall activate their BWCs when anticipating that they will be 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.

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.

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. Officers may when deemed necessary, mute the audio for the purposes of sensitive conversations with other officers.

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.

4 Frazee Body Worn Cameras Policy – January 2019 VII. 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.

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. D. Officers should use their BWCs and or 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. VIII. 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 by docking the unit at 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. 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. 1. Evidentiary: The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision above the level of Petty Misdemeanor. The recording has potential evidentiary value for reasons identified by the officer at the time of labeling. 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. 2. Use of Force/Pursuit: 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. 3. Adversarial: The incident involved an adversarial encounter. 5 Frazee Body Worn Cameras Policy – January 2019 4. Training Value: The event was such that it may have value for training. 5. Unintentional Recording: Footage captured through unintentional activation will be deleted after a 90-day retention. 6. General: 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. 7. Traffic/Petty Citation: The recording documents the issuance of a Petty Misdemeanor violation. 8. Traffic/Pedestrian Stop: The recording documents the undertaking of a pedestrian or traffic stop no resulting in charges. C. Labeling and flagging designations may be corrected or amended based on additional information. IIX. Access to BWC Data A. All safeguards in place by Evidence.com will meet or exceed required security parameters. In addition: B. Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy. C. 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. 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. E. 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 Frazee Police Department Records Division, 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. H. Prior to release of data, the Records Division shall determine if a file is appropriate for release if it contains subjects who may have rights under the MGDPA limiting public disclosure of information about them. These individuals include: 6 Frazee Body Worn Cameras Policy – January 2019

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.

IX. Agency Use of Data

A. 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.

C. 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.

D. Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. § 13.09.

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X. 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.

B. Unintentionally recorded footage shall be retained for 90 days.

C. BWC footage that is classified as non-evidentiary, or becomes classified as nonevidentiary, shall be retained for a minimum of 90 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.

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

E. Violations of this policy could result in disciplinary action in accordance to the City of Frazee handbook. Adopted – January 14, 2019