



INDEPENDENT AUDITOR'S REPORT

Bemidji Police Department



APRIL 29TH, 2024
RAMPART AUDIT LLC

Audit Overview and Recommendations

Dear Bemidji City Council and Chief Mastin:

We have audited the body-worn camera (BWC) program of the Bemidji Police Department (BPD) for the two-year period ended 12/31/2023. 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 Bemidji Police Department. Our responsibility is to express an opinion on the operations of this program based on our audit.

On February 20, 2024, Rampart Audit LLC (Rampart) met with Captain Dave LaZella, who provided information about BPD's BWC program policies, procedures and operations. Also present was Evidence Technician Malayna Sikkink, who is involved in the day-to-day operations of the BWC program. 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 BPD's recordkeeping.

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

BPD 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.

Rampart previously audited BPD's BWC program in 2022. As part of that audit, BPD personnel provided documentation showing that the public notification, comment and meeting requirements had been satisfied prior to the implementation of BPD's BWC program. Specifically, BPD personnel furnished copies of the following documents as evidence that BPD had met these requirements:

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 BPD, these terms may be used interchangeably in this report.

1. A body-worn camera implementation timeline showing each step of the proposed implementation process.
2. Results of a February 2017 online survey conducted via Bemidji PD's Facebook page and the City of Bemidji website to gauge respondents' thoughts on the adoption and implementation of a BWC program. The survey included responses from 100 individuals as well as 63 comments.
3. A copy of a March 27, 2017, news release inviting the public to attend a "Body Camera Informational meeting" to be held at Bemidji City Hall from 6:30 P.M to 7:30 P.M on April 6, 2017.
4. Minutes of the April 17, 2017, Bemidji City Council meeting noting that the meeting was opened for public comment as required under Minnesota Statute §626.8473 Subd. 2 prior to purchasing or implementing a portable recording system. There were no public comments.
5. Minutes of the November 20, 2017, Bemidji City Council meeting documenting the purchase of DigitalAlly body-worn cameras and storage server equipment.

Copies of these documents have been retained in Rampart's audit files. In our opinion, Bemidji Police Department met the public notice and comment requirements prior to the implementation of their BWC program.

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."

Rampart verified that there was a working link to BPD's BWC policy on the City of Bemidji's website, and used this link to download a copy of the policy for use in this audit. In our opinion, Bemidji Police Department is compliant with the requirements of §626.8473 Subd. 3(a).

BPD BWC WRITTEN POLICY

As part of this audit, we reviewed BPD'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) A prohibition on altering, erasing or destroying any recording made with a peace officer's portable recording system or data and metadata related to the recording prior the expiration of the applicable retention period under section 13.825 Subdivision 3, except that the full, unedited, and unredacted recording of a peace officer using deadly force must be maintained indefinitely;
- 3) A mandate that a portable recording system 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 of the officer's activities;
- 4) A mandate that officers assigned a portable recording system wear and operate the system in compliance with the agency's policy adopted under this section while performing law enforcement

activities under the command and control of another chief law enforcement officer or federal law enforcement official;

- 5) A mandate that, notwithstanding any law to the contrary, 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 deceased individual's next of kin, the legal representative of the deceased individual's next of kin, and the other parent of the deceased individual's child, upon their request, to inspect all portable recording system data, redacted no more than what is required by law, documenting the incident within five days of the request, with the following exception:
 - a) A law enforcement agency may deny a request if the agency determines that there is a compelling reason that inspection would interfere with an active investigation. If the agency denies access, the chief law enforcement officer must provide a prompt, written denial to the individual 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;
- 6) A mandate that, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency shall release all portable recording system data, redacted no more than required by law, documenting the incident no later than 14 days after the incident, unless the chief law enforcement officer asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by section 13.82 subdivision 7;
- 7) Procedures for testing the portable recording system to ensure adequate functioning;
- 8) 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;
- 9) Circumstances where recording is mandatory, prohibited, or at the discretion of the officer using the system;
- 10) Circumstances under which a data subject must be given notice of a recording;
- 11) Circumstances under which a recording may be ended while an investigation, response, or incident is ongoing;
- 12) Procedures for the secure storage of portable recording system data and the creation of backup copies of the data; and
- 13) 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.

In our opinion, the BPD BWC policy is compliant with respect to clauses 7 – 11.

Due to their complexity and interrelatedness, clauses 1 and 12 are discussed separately below. Clause 13 is also discussed separately.

Clauses 2 – 6 are newly added as a result of 2023 legislation and will also be discussed separately below.

BPD BWC Data Retention

Bemidji Police Department follows the General Records Retention Schedule for Minnesota Cities (GRRSMC) with respect to BWC data classified as having evidentiary value. BPD's BWC policy defines this to include "information [that] 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.” A review of the relevant sections of the current² GRRSMC schedule indicates that the stated retention guidelines appear to meet or exceed the requirements specified for each category of BWC data enumerated in §13.825 Subd. 3(b), with the exception of the requirement that portable recording system data documenting a peace officer’s use of deadly force be maintained indefinitely. Captain LaZella advised Rampart that while the written BWC policy has not yet been revised to reflect this change, Bemidji Police Department has taken steps to ensure that all existing BWC data documenting the use of deadly force will be preserved indefinitely. BPD’s policy specifies a minimum 90-day retention period for all BWC data, as required in §13.825 Subd. 3(a). BPD’s policy further notes that “[w]hen a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.”

BPD’s BWC policy states that “[o]fficers shall not intentionally record, edit, alter or erase any BWC or SCVC [Squad Car Video Camera] recording unless otherwise expressly authorized by the chief or the chief’s designee.” As described in Clause 2 of the Policy section of this report, in 2023 the Minnesota State Legislature added language requiring an agency’s body-worn camera policy to prohibit the alteration, erasure or destruction of any BWC data or metadata prior to the expiration of the retention period, and also required that the full, unedited, and unredacted recording of an officer’s use of deadly force be maintained indefinitely.

BPD employs Panasonic body-worn cameras for Patrol personnel, as well as a small number of older Digital Ally units for Investigations staff. All BWC data are stored on a dedicated, secure server located on-site and maintained by Beltrami County Management Information Systems personnel. Rampart also reviewed these facilities as part of our audit of the Beltrami County Sheriff’s Office BWC program in October of 2023.

BPD manages BWC data retention automatically, based on the data classification assigned to each video at the time of upload. If an officer fails to assign a data classification, the default retention period is permanent.

BPD’s BWC policy states that each officer using a BWC “is responsible for transferring or assuring the proper transfer of the data from his or her camera(s) to the secure storage system by the end of that officer’s shift.” Capt. LaZella explained that while the BWC systems employed do offer wireless upload capability, this process has proven unreliable so BPD officers physically dock their BWCs in order to upload the data. Officers are required to assign the appropriate data label or labels to each file at the time of the upload, unless this was completed when the file was initially created.

In our opinion, BPD’s revised written BWC policy is compliant with respect to applicable data retention requirements, with the exception of the following:

1. Recordings of incidents documenting the use of deadly force must be retained indefinitely;
2. A written policy must explicitly prohibit the alteration, erasure or destruction of any BWC recording prior to the expiration of its retention date.

² As of the date of this audit, the 2021 edition of the GRRSMC was the most recent version Rampart was able to locate online. We anticipate that the League of Minnesota Cities will update this document to reflect the 2023 legislative changes; however, we could not confirm that such updates had been made at the time of our audit.

Prior to the issuance of this report, BPD submitted a revised BWC policy that addresses the exceptions noted above. In our opinion, this revised BWC policy is compliant with respect to the applicable data access requirements. A copy of this policy has been attached to this report as Appendix B.

BPD BWC Data Destruction

As discussed in the preceding section, Capt. LaZella advised us that BPD BWC data are stored on secure on-site servers owned and maintained by the Beltrami County Sheriff's Office (BCSO), with data retention and deletion schedules managed automatically based on the data classification assigned to each video. Deleted BWC data are overwritten by newly created files. In addition, at the time it is retired from service, any BCSO-owned physical hard drive used to store BWC data will have all data deleted prior to being destroyed by physical means.

Rampart reviewed BCSO's BWC data storage practices as part of our audit of that agency in October of 2023. We were advised at that time that the servers are backed up on a nightly basis through an automated process to guard against the unintentional loss of data.

BPD BWC data may also be copied to an optical disc (CD or DVD) when required for evidentiary purposes. All such discs are maintained in evidence until they are no longer needed, at which time they are destroyed through physical shredding.

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

BPD BWC Data Access

BPD's BWC policy states that the Records Division is responsible for processing requests from members of the public or the media for access to BWC data. All such requests are made in writing, either using a pre-printed document or a web-based submission form, and are processed "in accordance with the MGDPA [Minnesota Government Data Practices Act] and other governing laws." Requests are reviewed by the city attorney and approved by the chief of police, or by Capt. LaZella in the chief's absence. Any required redaction is performed by the Criminal Intelligence Analyst. Data subjects receive BWC data on DVD.

As discussed in clauses 5 and 6 of the Policy section of this report, the Minnesota State Legislature in 2023 added specific access requirements related to BWC data that document deadly force incidents, and specified that these requirements must be included in the agency's BWC policy. At the time of our audit, BPD had not revised its BWC policy to address these requirements.

BPD's BWC policy also states that BWC data "may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure." BPD maintains a copy of each such request it receives. In addition, BWC data "shall be made available to prosecutors, courts, and other criminal justice entities as provided by law." Requests for BWC data from outside agencies must be made on agency letterhead and are subject to the same review and authorization process described above. Prior to releasing data, the receiving agency is given a verbal

reminder of their obligations under §13.825 Subd. 7 and Subd. 8, which include a requirement to maintain BWC data security. Captain LaZella advised us that Bemidji Police Department is exploring the possibility of adding a written reminder of the receiving agency's obligations each time a data request is fulfilled. Network sharing is used to share BWC data with the Beltrami County Sheriff's Office, while internet links are used to provide access to other outside agencies.

The Bemidji City Attorney and Beltrami County Attorney submit written requests for BWC data via email and also receive access via internet links.

In our opinion, BPD's written BWC policy is compliant with respect to the applicable data access requirements, with the following exceptions:

1. The BWC policy must state that, notwithstanding any law to the contrary, 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 deceased individual's next of kin, the legal representative of the deceased individual's next of kin, and the other parent of the deceased individual's child, upon their request, to inspect all portable recording system data, redacted no more than what is required by law, documenting the incident within five days of the request, unless the agency determines that there is a compelling reason that inspection would interfere with an active investigation. If the agency denies access, the chief law enforcement officer must provide a prompt, written denial to the individual 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.
2. The BWC policy must state that, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency shall release all portable recording system data, redacted no more than required by law, documenting the incident no later than 14 days after the incident, unless the chief law enforcement officer asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by section 13.82 subdivision 7.

Prior to the issuance of this report, BPD submitted a revised BWC policy that addresses the exceptions noted above. In our opinion, this revised BWC policy is compliant with respect to the applicable data access requirements.

BPD BWC Data Classification

BPD's BWC Policy states that "BWC data is presumptively private," and further states that "BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently." Active criminal investigation data are classified as confidential. BPD BWC Policy also identifies certain categories of BWC data that are public.

As noted in the preceding section, prior to the issuance of this report, Bemidji Police Department furnished a revised BWC policy to address the 2023 legislative updates regarding data documenting incidents involving the use of deadly force. The revisions quote directly from the updated statute. This section of the BPD BWC policy mirrors the categories and language of §13.825 Subd. 2. In our opinion, this revised policy is compliant with respect to the applicable data classification requirements.

BPD BWC Internal Compliance Verification

The BPD BWC Training and Compliance section states that “[s]upervisors shall monitor for compliance with this policy,” while the Agency Use of Data section states that:

At least once a month, supervisors will randomly review BWC... usage by each officer they supervise to ensure compliance with this policy and to identify any performance areas in which additional training or guidance is required. This review will include a minimum of four (4) recordings which will be documented in a database maintained by this department.

In addition, supervisors 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.

Capt. LaZella advised us that the monthly supervisory review includes a sampling of the recordings created by the start-of-shift function testing mandated in their policy. Logs are maintained of all supervisory reviews.

BPD’s BWC policy states that:

Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers may only use department-issued BWCs and SCVCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.

The 2023 legislative changes require that an agency’s BWC policy must specify that an officer assigned a BWC must wear and operate the system in compliance with the agency's BWC policy while performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement official. While the wording in BPD’s BWC policy appears to be sufficiently broad to cover such scenarios, we recommend adding language to make this requirement explicit.

Prior to the issuance of this report, BPD submitted a revised version of their BWC policy adding the language described in the preceding paragraph. A copy of the revised policy is attached to this report as Appendix B.

BPD’s written BWC policy addresses consequences associated with violations of the policy, to include both disciplinary action and potential criminal penalties.

In our opinion, BPD’s revised policy is compliant with respect to the compliance and disciplinary requirements contained in §626.8473 Subd. 3(b)(8).

BPD BWC Program and Inventory

BPD currently possesses six (6) Digital Ally and thirty-three (33) Panasonic body-worn cameras, for a total of 39 body-worn cameras.

The BPD BWC policy identifies those circumstances in which deputies 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. For Patrol personnel, the Panasonic body-worn cameras are synced to their squad camera systems and are activated automatically anytime the squad's emergency lights are activated.

BPD's BWC policy states that "[o]fficers should wear their issued BWCs at the location on their body and in the manner specified in training." The 2023 legislative changes specify that a BWC policy must require that a BWC "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 of the officer's activities."

Prior to the issuance of this report, BPD submitted a revised version of their BWC policy clarifying that officers "shall wear their issued BWC at or above the midline of the waist in a position that maximizes the capacity of the device to record video footage of the officer's activities."

Capt. LaZella advised us that he is able to determine the number of BWCs deployed by reviewing the schedule and/or payroll data.

As of the audit date, February 20, 2024, BPD maintained approximately 14.5 TB of BWC data for the Panasonic cameras and approximately 1 TB of data for the Digital Ally cameras.

BPD BWC Physical, Technological and Procedural Safeguards

BPD BWC data are initially recorded to a hard drive in each officer's BWC. Prior to the end of each shift, the officer places his or her BWC in a docking station at BPD. Any BWC data are then uploaded automatically to a secure, on-site server. In the event an officer fails to label a video, the default retention period is permanent to avoid the accidental loss of data.

Officers have view-only access to their own data for report writing, trial preparation, data administration, investigatory purposes and other legitimate law enforcement purposes. All BWC data access is logged automatically and available for audit purposes; however, the Panasonic UDE system does not require the user to enter a reason when accessing a video.

Enhanced Surveillance Technology

BPD currently employs BWCs 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 BPD 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 132 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 the audit covers a period of two 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 calls 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 BPD records.

All reviewed videos were properly identified by CFS number.

Audit Conclusions

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



Daniel E. Gazetka

Rampart Audit LLC

4/29/2024

APPENDIX A:

BEMIDJI POLICE DEPARTMENT BODY-WORN CAMERA (BWC) AND SQUAD CAR VIDEO CAMERA (SCVC) POLICY

#219 Purpose This policy sets forth guidelines governing the use of BWCs and SCVCs as well as administering the data that results. Compliance with these guidelines is mandatory, but it is recognized that officers must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain, and rapidly evolving. *Graham v. Connor*, 490 U.S. 386, 397 (1989). Policy It is the policy of the Bemidji Police Department to authorize and require the use of department issued BWCs and SCVCs as set forth below, and to administer the resulting data as provided by law. The primary purpose of using body-worn-cameras (BWCs) and Squad car video cameras (SCVCs) is to capture evidence and accurately document police-citizen encounters. Scope This policy governs the use of BWCs and SCVCs by Bemidji Police Officers in the course of official duties. The chief or chief's designee may supersede this policy by providing specific instructions for BWC/SCVC use to individual officers, or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. This policy does not govern the use of surreptitious recording devices used in investigative or undercover operations. Definitions The following phrases have special meanings as used in this policy: A. Adversarial means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial. B. Body-worn camera (BWC) refers to a device worn by a peace officer that is capable of audio and video recordings. C. BWC/SCVC Administrator refers to designated personnel certified or trained in the operational use of BWC/SCVCs, storage and retrieval methods and procedures. The administrator assigns, tracks and maintains BWC/SCVC equipment, oversees needed repairs or replacement of equipment through the vendor, prepares for the biennial audit, Bemidji Police Department Policy #219: 1/1/2018 Body-Worn Cameras and Squad Car Video Cameras Page 2 controls user rights and access, and acts as a liaison with the vendor. The administrator is also responsible for the training of law enforcement operators on the use of the BWC/MVR. D. BWC/SCVC Technician refers to designated personnel certified or trained in the operational use of BWC/SCVCs, storage and retrieval methods and procedures. Responsibilities include; reproduction of recorded data and maintain dissemination records regarding disclosure of data in accordance with MN statutes §13.82 and §13.825. Maintain an inventory of BWC/ SCVC data in accordance with the General Records Retention Schedule for Minnesota Cities (GRRSMC). E. 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. F. 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. G. 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. H. Link camera feature refers to the ability to activate the BWC and SCVC through a single activation trigger. I. MGDPA or Data Practices Act refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq. J. Official duties, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency. K. Recorded data refers to all digital multimedia captured by BWC's or SCVC's. L. Records Retention Schedule refers to the General Records Retention Schedule for Minnesota Cities (GRRSMC). M. Squad car video camera (SCVC) refers to a device installed in a vehicle that is capable of audio and video recordings. N. Unintentionally recorded footage is a video recording which results from an officer's inadvertence or neglect in operating the officer's BWC or SCVC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally Bemidji Police Department Policy #219: 1/1/2018 Body-Worn Cameras and Squad Car Video Cameras Page 3 recorded footage include, but are not limited to, recordings during a vehicle check, 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. Use and Documentation A. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers may use only department-issued BWCs and SCVCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department. B. At the beginning of each shift officers shall log-in to their issued BWCs and SCVCs with a unique ID to conduct a function test and to assure the devices are operating properly. This includes an individual test of each camera and the link cameras feature (when equipped). Officers noting a malfunction, damage, or loss shall promptly report the issue to the officer's supervisor or the officer in charge (OIC) and document the issue by creating a case in the records management system (RMS). Supervisors or OIC's shall take prompt action to address malfunctions and document the steps taken to solve the deficiency in the same RMS case. C. Officers should wear their issued BWCs at the location on their body and in the manner specified in training. D. Each officer has been issued a body microphone for the SCVC in their assigned squad. With the issuance of BWCs to each patrol officer, use of the SCVC body mic will no longer be required. However, if the officer's BWC is out of service for any reason, officers will be required to switch back to using their assigned body mic. E. Officers must document in their reports BWC / SCVC use and non-use as follows: 1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report in the RMS. 2. Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report. Supervisors shall review these reports and initiate any corrective action in accordance with the City of Bemidji's policy on discipline. F. The department will maintain the following records and documents relating to BWC use, which are classified as public data: 1. The total number of BWCs owned or maintained by the agency; Bemidji Police Department Policy #219: 1/1/2018 Body-Worn Cameras and Squad Car Video Cameras Page 4 2. A daily record of the total number of BWCs actually deployed and used by officers and, if applicable, the precincts in which they were used; 3. The total amount of recorded BWC data collected and maintained; and 4. This policy, together with the Records Retention Schedule. General Guidelines for Recording A. Officers shall activate their BWCs and SCVCs when anticipating that they will be involved in, become involved in, or witness other officers of this agency involved in a pursuit, Terry stop of a motorist or pedestrian, traffic enforcement, search, seizure, arrest, use of force, adversarial contact, all emergency driving situations, mental health calls, suspicious persons calls and during other activities likely to yield information having evidentiary value.

However, officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines, part (D)(2) (above). B. The SCVC's are programmed to automatically activate when the squad's emergency lights are activated. They are also outfitted with a crash sensor which activates the SCVC when the squad is involved in a crash significant enough to trip the sensor. C. Officers have discretion to record or not record general citizen contacts. D. Officers have no affirmative duty to inform people that a BWC or SCVC is being operated or that the individuals are being recorded. E. Once activated, the BWC and/or SCVC 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. If the recording is discontinued while an investigation, response, or incident is ongoing, officers shall state the reasons for ceasing the recording on camera before deactivating their BWC or SCVC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value. F. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy. G. 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. Bemidji Police Department Policy #219: 1/1/2018 Body-Worn Cameras and Squad Car Video Cameras Page 5 Special Guidelines for Recording Officers may, in the exercise of sound discretion, determine: A. To use their BWCs 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 BWCs to take recorded statements from persons believed to be victims of and witnesses to crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect. C. In addition, Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. However, when responding to an apparent mental health crisis or event, BWCs shall be activated as necessary to document any use of force and the basis for it along with any other information having evidentiary value. D. Officers shall use their BWCs and SCVCs 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. Downloading and Labeling Data A. Each officer using a BWC and SCVC is responsible for transferring or assuring the proper transfer of the data from his or her camera(s) to the secure storage system by the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and SCVC to assume responsibility for transferring the data. B. Officers shall label the BWC and SCVC 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. C. For each digital recording, officers shall select the proper Event ID from the drop down menu and enter the corresponding Incident Number. The Incident number is the eight (8) digit RMS case file number (e.g., 17000001). D. Officers should assign the event ID labels according to training. Bemidji Police

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Administering Access to BWC AND SCVC Data: A. BWC Data subjects. Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data: 1. Any person or entity whose image or voice is documented in the data. 2. The officer who collected the data. 3. Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording. B. BWC data is presumptively private. BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result: 1. BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities. 2. Some BWC data is classified as confidential (see C. below). 3. Some BWC data is classified as public (see D. below). C. Confidential data. BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the “private” classification listed above and the “public” classifications listed below. D. BODY WORN CAMERA Public data. The following BWC data is public: 1. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous. 2. Data that documents the use of force by a peace officer that results in substantial bodily harm. 3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted. In addition, any data on undercover officers must be redacted. 4. Data that documents the final disposition of a disciplinary action against a public employee. However, if another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other classification. For instance, data that reveals protected identities under Minn. Stat. § 13.82, subd. 17 (e.g., certain victims, Bemidji Police Department Policy #219: 1/1/2018 Body-Worn Cameras and Squad Car Video Cameras Page 7 witnesses, and others) should not be released even if it would otherwise fit into one of the public categories listed above. E. SQUAD CAR VIDEO CAMERA Public data. Except for data defined in subdivision 2, 3 and 6 of Minnesota Statute § 13.82, Squad Car Video Camera (SCVC) data is considered criminal investigative data under Minnesota statute 13.82 subdivision 7. As such, all SCVC data is considered confidential or protected nonpublic while the investigation is active. Data that is part of an inactive investigation which are clearly offensive to common sensibilities are classified as private or nonpublic, provided that the existence of the data is disclosed to any person requesting access to the investigative data. The following SCVC data is public subject to the timeline identified in the GRRSMC: 1. Any data created that is not part of an active criminal investigation. 2. Inactive investigative data unless; i. The release of the data would jeopardize another ongoing investigation. ii. The release of data would reveal the identity of individuals protected under MN statute § 13.82 sub. 17. F. Access to BWC and SCVC data by non-employees. Officers shall refer members of the media or public seeking access to BWC and/or SCVC data to Beltrami County Records Department Supervisor who shall process the request in accordance with the MGDPA and other governing laws. In particular: 1. An individual shall be allowed to review recorded BWC and SCVC data about him or herself and other data subjects in the recording, but access shall not be granted: a. If the data was collected or created as part of an active investigation. b. To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82, subd. 17. 2. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines on redaction: a. Data on other individuals in the recording who do not consent to the release must be redacted. b. Data that would identify undercover officers must be redacted. c. Data on other

officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted. Bemidji Police Department Policy #219: 1/1/2018 Body-Worn Cameras and Squad Car Video Cameras Page 8 G. Access by peace officers and law enforcement employees. No employee may have access to the department's BWC and SCVC data except for legitimate law enforcement or data administration purposes: 1. Officers may access and view stored BWC and SCVC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. However, in the event an officer is involved in a critical incident resulting in substantial bodily harm, great bodily harm or death, viewing of any video prior to giving a statement will be at the discretion of the investigating agency. 2. Access to BCW and SCVC data may be granted to Bemidji Police Detectives for the purpose of investigation. The Chief of Police may allow others access to specific BWC and/or SCVC data as needed. 3. Agency personnel shall document their reasons for accessing stored BWC and SCVC data in the video management system as directed at the time of each access. 4. Agency personnel are prohibited from accessing BWC and/or SCVC data for non business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC and SCVC data recorded or maintained by this agency to public and social media websites. 5. Employees seeking access to BWC and SCVC data for non-business reasons may make a request for it in the same manner as any member of the public. H. Other authorized disclosures of data. Officers may display portions of BWC and SCVC 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 generally limit these displays in order to protect against the incidental disclosure of individuals whose identities are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video. In addition, 1. BWC and SCVC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure. 2. BWC and SCVC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law. Data Security Safeguards A. BWC and SCVC data will be uploaded through an approved vendor software platform to a secure server maintained by the Beltrami County MIS department or Cloud storage. Bemidji Police Department Policy #219: 1/1/2018 Body-Worn Cameras and Squad Car Video Cameras Page 9 B. Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view agency BWC data. B. Officers shall not intentionally record, edit, alter, or erase any BWC or SCVC recording unless otherwise expressly authorized by the chief or the chief's designee. C. As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program. Agency Use of Data A. At least once a month, supervisors will randomly review BWC and SCVC usage by each officer they supervise to ensure compliance with this policy and to identify any performance areas in which additional training or guidance is required. This review will include a minimum of four (4) recordings which will be documented in a database maintained by this department. B. In addition, supervisors and other assigned personnel may access BWC and SCVC 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. C. Nothing in this policy limits or prohibits the use of BWC or SCVC data as evidence of misconduct or as a basis for discipline. D. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the

trainees' performance. Data Retention A. All BWC and SCVC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data. B. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year. C. Certain kinds of BWC and SCVC data must be retained for six years: 1. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review. 2. Data documenting circumstances that have given rise to a formal complaint against an officer. Bemidji Police Department Policy #219: 1/1/2018 Body-Worn Cameras and Squad Car Video Cameras Page 10 D. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period. E. Subject to Part F (below), all other BWC and SCVC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days. F. Upon written request by a BWC and SCVC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received. G. The department shall maintain an inventory of BWC and SCVC recordings having evidentiary value. H. The department will post this policy, together with a link to the General Records Retention Schedule for Minnesota Cities, on its website. Training and Compliance A. Users of the BWC and SCVC systems shall successfully complete an approved course of instruction prior to being deployed. Completion of this training shall be documented by the designated trainer and retained in the employee training file. B. Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC and/or SCVC data may constitute misconduct and subject individuals to disciplinary action and/or criminal penalties pursuant to Minn. Stat. § 13.09. Reference or Revision Date(s): A. League of Minnesota Cities Informational Memo – Model Policy B. League of Minnesota Cities Informational Memo – Use of Body-Worn Cameras. Dated 07/18/2016 C. League of Minnesota Cities Informational Memo – Frequently Asked Questions on Portable recording Systems. Dated 08/8/2016 D. Minnesota Statutes §13.82 and 13.825 E. Minnesota Department of Administration – Peace Officer Body-worn Camera Data. Dated 08/04/2016. F. REVISION DATE(S):

APPENDIX B:

Bemidji Police Department

219 - Body-Worn Camera (BWC) and Squad Car Video Camera (SCVC)--Apr 2024

Purpose

This policy sets forth guidelines governing the use of BWCs and SCVCs as well as administering the data that results. Compliance with these guidelines is mandatory, but it is recognized that officers must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain, and rapidly evolving. *Graham v. Connor*, 490 U.S. 386, 397 (1989).

Policy

It is the policy of the Bemidji Police Department to authorize and require the use of department-issued BWCs and SCVCs as set forth below, and to administer the resulting data as provided by law. The primary purpose of using body-worn-cameras (BWCs) and Squad car video cameras (SCVCs) is to capture evidence and accurately document police-citizen encounters.

Scope

This policy governs the use of BWCs and SCVCs by Bemidji Police Officers in the course of official duties. The chief or chief's designee may supersede this policy by providing specific instructions for BWC/SCVC use to individual officers, or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. This policy does not govern the use of surreptitious recording devices used in investigative or undercover operations.

Definitions

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

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

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

- B. **Body-worn camera (BWC)** refers to a device worn by a peace officer that is capable of audio and video recordings.
- C. **BWC/SCVC Administrator** refers to designated personnel certified or trained in the operational use of BWC/SCVCs, storage and retrieval methods and procedures. The administrator assigns, tracks and maintains BWC/SCVC equipment, oversees needed repairs or replacement of equipment through the vendor, prepares for the biennial audit, controls user rights and access, and acts as a liaison with the vendor. The administrator is also responsible for the training of law enforcement operators on the use of the BWC/MVR.
- D. **BWC/SCVC Technician** refers to designated personnel certified or trained in the operational use of BWC/SCVCs, storage and retrieval methods and procedures. Responsibilities include; reproduction of recorded data and maintain dissemination records regarding disclosure of data in accordance with MN statutes §13.82 and §13.825. Maintain an inventory of BWC/ SCVC data in accordance with the General Records Retention Schedule for Minnesota Cities (GRRSMC).
- E. **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.
- F. **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.
- G. **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.
- H. **Link camera feature** refers to the ability to activate the BWC and SCVC through a single activation trigger.
- I. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- J. **Official duties**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency. In circumstances where an officer is also employed by another agency as a peace officer, the officer is not performing official duties on behalf of this agency while acting in the course and scope of their employment for the other agency.

- K. **Recorded data** refers to all digital multimedia captured by BWC's or SCVC's.
- L. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities (GRRSMC).
- M. **Squad car video camera (SCVC)** refers to a device installed in a vehicle that is capable of audio and video recordings.
- N. **Unintentionally recorded footage** is a video recording which results from an officer's inadvertence or neglect in operating the officer's BWC or SCVC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recordings during a vehicle check, 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.

Use and Documentation

- A. Officers may only use department issued BWC's while engaged in the performance of official duties.
- B. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers may use only department-issued BWCs and SCVCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department. Officers who are engaged in the performance of official duties and have been issued BWCs shall use and operate them in compliance with this policy. This requirement includes situations where the officer is under the command or control of another chief law enforcement officer or federal law enforcement official while performing official duties for this agency.
- C. At the beginning of each shift officers shall log-in to their issued BWCs and SCVCs with a unique ID to conduct a function test and to assure the devices are operating properly. This includes an individual test of each camera and the link cameras feature (when equipped). Officers noting a malfunction, damage, or loss shall promptly report the issue to the officer's supervisor or the officer in charge (OIC) and document the issue by creating a case in the records management system (RMS). Supervisors or OIC's shall take prompt action to address malfunctions and document the steps taken to solve the deficiency in the same RMS case.

- D. Officers should wear their issued BWCs at the location on their body and in the manner specified in training. Officers shall wear their issued BWC at or above the midline of the waist in a position that maximizes the capacity of the device to record video footage of the officer's activities.
- E. Each officer has been issued a body microphone for the SCVC in their assigned squad. With the issuance of BWCs to each patrol officer, use of the SCVC body mic will no longer be required. However, if the officer's BWC is out of service for any reason, officers will be required to switch back to using their assigned body mic.
- F. Officers must document in their reports BWC / SCVC use and non-use as follows:
 - 1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report in the RMS.
 - 2. Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report. Supervisors shall review these reports and initiate any corrective action in accordance with the City of Bemidji's policy on discipline.
- G. The department will maintain the following records and documents relating to BWC use, which are classified as public data:
 - 1. The total number of BWCs owned or maintained by the agency;
 - 2. A daily record of the total number of BWCs actually deployed and used by officers and, if applicable, the precincts in which they were used;
 - 3. The total amount of recorded BWC data collected and maintained; and
 - 4. This policy, together with the Records Retention Schedule.

General Guidelines for Recording

- A. Officers shall activate their BWCs and SCVCs when anticipating that they will be involved in, become involved in, or witness other officers of this agency involved in a pursuit, *Terry* stop of a motorist or pedestrian, traffic enforcement, search, seizure, arrest, use of force, adversarial contact, all emergency driving situations, mental health calls, suspicious persons calls and during other activities likely to yield information having evidentiary value. However, officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines, part (D)(2) (above).

- B. The SCVC's are programmed to automatically activate when the squad's emergency lights are activated. They are also outfitted with a crash sensor which activates the SCVC when the squad is involved in a crash significant enough to trip the sensor.
- C. Officers have discretion to record or not record general citizen contacts.
- D. Officers have no affirmative duty to inform people that a BWC or SCVC is being operated or that the individuals are being recorded.
- E. Once activated, the BWC and/or SCVC 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. If the recording is discontinued while an investigation, response, or incident is ongoing, officers shall state the reasons for ceasing the recording on camera before deactivating their BWC or SCVC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
- F. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.
- G. 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.

Special Guidelines for Recording

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

- A. To use their BWCs 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 BWCs to take recorded statements from persons believed to be victims of and witnesses to crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.
- C. In addition, Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. However, when responding to an apparent mental health crisis or event, BWCs shall be activated as necessary to

document any use of force and the basis for it along with any other information having evidentiary value.

- D. Officers *shall* use their *BWCs and SCVCs* 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.

Downloading and Labeling Data

- A. Each officer using a BWC and SCVC is responsible for transferring or assuring the proper transfer of the data from his or her camera(s) to the secure storage system by the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and SCVC to assume responsibility for transferring the data.
- B. Officers shall label the BWC and SCVC 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.
- C. For each digital recording, officers shall select the proper Event ID from the drop down menu and enter the corresponding Incident Number. The Incident number is the eight (8) digit RMS case file number (e.g., 17000001).
- D. Officers should assign the event ID labels according to training.

Administering Access to BWC AND SCVC Data:

- 1) **Death resulting from force—access to data by survivors and legal counsel.**

Notwithstanding any other law or police to the contrary, when an individual dies as a result of force used by an officer of this agency, all BWC data documenting the incident, redacted only as required by law, must be made available for inspection by any of the following individuals within five days of their request:

 - a) The deceased individual's next of kin.

- b) The legal representative of the deceased individual's next of kin.
- c) The other parent of the deceased individual's child.

The request may be denied if there is a compelling reason that inspection would interfere with an active investigation. If access is denied, the chief of police must provide a prompt, written denial to the requestor with a short description of the compelling reason that access was denied. The written denial must also provide notice that relief may be sought from the district court pursuant to Minnesota Statutes section 13.82, subd 7.

2) **Death resulting from force—release of data to the public.**

When an individual dies as a result of force used by an officer of this agency, all BWC data documenting the incident, redacted only as required by law, must be release and classified as public within 14 days after the incident, unless the chief of police asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by Minnesota Statutes section 13.82, subd 7.

3) **BWC Data subjects.** Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:

- 1. Any person or entity whose image or voice is documented in the data.
- 2. The officer who collected the data.
- 3. Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording.

4) **BWC data is presumptively private.** BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result:

- 1. BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.
- 2. Some BWC data is classified as confidential (see C. below).
- 3. Some BWC data is classified as public (see D. below).

5) **Confidential data.** BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the “private” classification listed above and the “public” classifications listed below. However, special classifications and access rights are

applicable to BWC data documenting incidents where an officer's use of force results in death (see parts A and B, above).

6) **BODY WORN CAMERA Public data.** The following BWC data is public:

1. Data that record, describe or otherwise document actions and circumstances surrounding the use of force by a peace officer that results in substantial bodily harm, or the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
2. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted. In addition, any data on undercover officers must be redacted.
3. Data that documents the final disposition of a disciplinary action against a public employee.

However, if another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other classification. For instance, data that reveals protected identities under Minn. Stat. § 13.82, subd. 17 (e.g., certain victims, witnesses, and others) should not be released even if it would otherwise fit into one of the public categories listed above.

7) **SQUAD CAR VIDEO CAMERA Public data.**

Except for data defined in subdivision 2, 3 and 6 of Minnesota Statute § 13.82, Squad Car Video Camera (SCVC) data is considered criminal investigative data under Minnesota statute 13.82 subdivision 7. As such, all SCVC data is considered confidential or protected nonpublic while the investigation is active. Data that is part of an inactive investigation which are clearly offensive to common sensibilities are classified as private or nonpublic, provided that the existence of the data is disclosed to any person requesting access to the investigative data.

The following SCVC data is public subject to the timeline identified in the GRRSMC:

- a) Any data created that is not part of an active criminal investigation.
- b) Inactive investigative data unless;
 - i) The release of the data would jeopardize another ongoing investigation.
 - ii) The release of data would reveal the identity of individuals protected under MN statute § 13.82 sub. 17.

8) **Access to BWC and SCVC data by non-employees.** Officers shall refer members of the media or public seeking access to BWC and/or SCVC data to Beltrami County Records Department Supervisor who shall process the request in accordance with the MGDPA and other governing laws. In particular:

1. An individual shall be allowed to review recorded BWC and SCVC data about him- or herself and other data subjects in the recording, but access shall not be granted:

- a. If the data was collected or created as part of an active investigation.
 - b. To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82, subd. 17.
 2. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines on redaction:
 - a. Data on other individuals in the recording who do not consent to the release must be redacted.
 - b. Data that would identify undercover officers must be redacted.
 - c. Data on other officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted.
- 9) **Access by peace officers and law enforcement employees.** No employee may have access to the department's BWC and SCVC data except for legitimate law enforcement or data administration purposes:
1. Officers may access and view stored BWC and SCVC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. However, in the event an officer is involved in a critical incident resulting in substantial bodily harm, great bodily harm or death, viewing of any video prior to giving a statement will be at the discretion of the investigating agency.
 2. Access to BCW and SCVC data may be granted to Bemidji Police Detectives for the purpose of investigation. The Chief of Police may allow others access to specific BWC and/or SCVC data as needed.
 3. Agency personnel shall document their reasons for accessing stored BWC and SCVC data in the video management system as directed at the time of each access.
 4. Agency personnel are prohibited from accessing BWC and/or SCVC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC and SCVC data recorded or maintained by this agency to public and social media websites.
 5. Employees seeking access to BWC and SCVC data for non-business reasons may make a request for it in the same manner as any member of the public.

10) **Other authorized disclosures of data.** Officers may display portions of BWC and SCVC 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 generally limit these displays in order to protect against the incidental disclosure of individuals whose identities are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video. In addition,

(1) BWC and SCVC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.

(2) BWC and SCVC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

Data Security Safeguards

- A. BWC and SCVC data will be uploaded through an approved vendor software platform to a secure server maintained by the Beltrami County MIS department or Cloud storage.
- B. Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view agency BWC data.
- C. Officers shall not intentionally record, edit, alter, or erase any BWC or SCVC recording unless otherwise expressly authorized by the chief or the chief's designee. In no case may any recording made with a portable recording system, or, data/metadata related to any recording be edited, altered or erased prior to the expiration of any applicable retention period per Minn. Stat § 626.8473.
- D. As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program

Agency Use of Data

- A. At least once a month, supervisors will randomly review BWC and SCVC usage by each officer they supervise to ensure compliance with this policy and to identify any performance areas in which additional training or guidance is required. This review will include a minimum of four (4) recordings which will be documented in a database maintained by this department.
- B. In addition, supervisors and other assigned personnel may access BWC and SCVC 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.

- C. Nothing in this policy limits or prohibits the use of BWC or SCVC data as evidence of misconduct or as a basis for discipline.
- D. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

Data Retention

- A. All BWC and SCVC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.
- B. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year.
 - a. *Recording system data that document a peace officer's use of deadly force must be maintained indefinitely in full unedited and unredacted format per 626.8473.*
- C. Certain kinds of BWC and SCVC data must be retained for seven years:
 - 1. Data that documents the use of force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review.
 - 2. Data documenting circumstances that have given rise to a formal complaint against an officer.
- D. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period. Data may be retained for as long as reasonably necessary for possible evidentiary or exculpatory use related to the incident with respect to which the data was collected.
- E. Subject to Part F (below), all other BWC and SCVC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
- F. Upon written request by a BWC and SCVC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180

days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.

- G. The department shall maintain an inventory of BWC and SCVC recordings having evidentiary value.
- H. The department will post this policy, together with a link to the General Records Retention Schedule for Minnesota Cities, on its website.

Training and Compliance

- A. Users of the BWC and SCVC systems shall successfully complete an approved course of instruction prior to being deployed. Completion of this training shall be documented by the designated trainer and retained in the employee training file.
- B. Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC and/or SCVC data may constitute misconduct and subject individuals to disciplinary action and/or criminal penalties pursuant to Minn. Stat. § 13.09.

Reference or Revision Date(s):

- A. League of Minnesota Cities Informational Memo – Model Policy, 11/30/2023
- B. League of Minnesota Cities Informational Memo – Use of Body-Worn Cameras. Dated 07/18/2016, 11/30/2023
- C. League of Minnesota Cities Informational Memo – Frequently Asked Questions on Portable recording Systems. Dated 08/8/2016
- D. Minnesota Statutes §13.82, 13.825, 626.8473.
- E. Minnesota Department of Administration – Peace Officer Body-worn Camera Data. Dated 08/04/2016.
- F. REVISION DATE(S): April 26, 2024