



INDEPENDENT AUDITOR'S REPORT

Rogers Police Department



AUGUST 7TH, 2024
RAMPART AUDIT LLC

Audit Overview and Recommendations

Dear Rogers City Council and Chief Wills:

We have audited the body-worn camera (BWC) program of the Rogers Police Department (RPD) for the two-year period ended 1/31/2024. 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 Rogers Police Department. Our responsibility is to express an opinion on the operations of this program based on our audit.

On April 1, 2024, Rampart Audit LLC (Rampart) met with Captain Jeffrey Beck and Officer Kris Tomasco, who provided information about RPD'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 RPD's recordkeeping.

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

RPD 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 located a post on the City of Rogers website announcing RPD's intention to implement a body-worn camera program. The announcement included instructions for submitting comments via mail or email in advance of a public hearing to be held during the regularly-scheduled Rogers City Council meeting on December 14, 2021, as well as information that there would be an opportunity for public comment during the hearing. Rampart also located a post on RPD's Facebook page dated November 18, 2021, containing the same information. In addition, Rampart located a contemporaneous article in the *Crow River News*. Rogers PD provided a copy of a "Request for Action" document dated 5/25/2021 from Chief Wills to the Rogers City Council, requesting council approval to purchase BWCs, squad cameras

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

and Tasers from Axon. Rogers also provided a copy of the written comments received in advance of the public hearing. We noted that all nine of the comments were in favor of the BWC program.

Copies of these documents have been retained in Rampart's audit files. In our opinion, Rogers Police Department met the public notice and comment requirements prior to the implementation of their BWC program in February of 2022.

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 RPD's BWC policy on the Police Department page of the City of Rogers's website, as well as a link to the retention schedule. In our opinion, Rogers Police Department is compliant with the requirements of §626.8473 Subd. 3(a).

RPD BWC WRITTEN POLICY

As part of this audit, we reviewed RPD'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 RPD 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.

RPD BWC Data Retention

Rogers Police Department's BWC policy states that: "[a]ll BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data."

Minn. Stat. §13.825 Subd. 3(b) requires that the following categories of BWC data be retained for a minimum period of one year: 1) any reportable firearms discharge; 2) any use of force by an officer that results in substantial bodily harm; and 3) any incident that results in a formal complaint against an officer. Meanwhile, Subd. 3(c) requires that any portable recording system data documenting a peace officer's use of deadly force must be maintained indefinitely. RPD's records retention schedule addresses each of these categories of data and assigns the statutorily-required retention period.

A review of RPD's BWC policy and the associated records retention schedule, a copy of which is also accessible on the RPD website, shows that the agency's scheduled retention period meets or exceeds the statutory requirement for each classification of data described above.

RPD's records retention schedule also addresses the requirement contained in Minn. Stat. §13.825 Subd. 3(d) that an agency retain BWC recordings for an additional period of up to 180 days when so requested in writing by a data subject.

RPD's BWC policy states that "[o]fficers or Department members shall not intentionally edit, alter, or erase any BWC recording." This language precludes RPD personnel from manually deleting BWC video; consequently, BWC data are only deleted by RPD's video management software after reaching the expiration of the retention period assigned based on each video's classification. In our opinion, this satisfies the requirements of Clause 2 of the Policy section noted above.

RPD employs Axon Body 4 (AB4) 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. If an officer fails to assign a data classification, the default retention period is indefinite to avoid the accidental loss of data.

RPD employs auto-tagging functionality that allows the BWC management system to automatically associate computer-aided dispatch (CAD) events to BWC events; however, RPD's BWC policy also states that each officer or department member using a BWC "shall verify that the proper CAD code is associated to each event." In addition, each officer or department member "is responsible for transferring or assuring the proper transfer of the data from his/her BWC by the end of their shift," unless the officer is involved in an incident resulting in death or great bodily harm to an individual, in which case a supervisor is directed to take custody of the BWC and assume responsibility for transferring its data.

Captain Beck advised that the Axon body-worn cameras utilize physical docking stations located at the Rogers Police Department.

In our opinion, RPD's written BWC policy is compliant with respect to applicable data retention requirements.

RPD BWC Data Destruction

As discussed above, RPD 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.

FBI CJIS policy requires that hard drives used for CJIS data storage are sanitized by overwriting at least three times or degaussing prior to being released to unauthorized individuals, while inoperable drives must be destroyed through physical means such as shredding.

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

RPD BWC Data Access

Captain Beck advised us that that all requests from the public or media are made in writing using Rogers Police Department's BWC data disclosure form, which is submitted to the Records supervisor. Requests from other law enforcement agencies follow the same process, but can also be submitted to Captain Foster. RPD's BWC policy states that requests for BWC data shall be processed "in accordance with the MGDPA [Minnesota Government Data Practices Act] and other governing laws." BWC video is shared via DVD or portable USB memory device. Other law enforcement agencies may also receive BWC data via Evidence.com internet link.

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, RPD had not revised its BWC policy to address these requirements.

RPD'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." RPD 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." Prosecutors, probation personnel and other law enforcement personnel may submit the disclosure form via email. Captain Beck indicated that RPD maintains verbal acknowledgments of any receiving agency's obligations under §13.825 Subd. 7 and Subd. 8, which include a requirement to maintain BWC data security. In addition, any BWC video shared with another agency that contains data on protected parties, such as officers working in an undercover capacity, contains a disclaimer to that effect.

In our opinion, RPD'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.

These requirements were newly added in 2023 by the Minnesota State Legislature. Prior to the issuance of this report, RPD 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.

RPD BWC Data Classification

RPD'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. RPD 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, RPD submitted a revised BWC policy that addresses the changes the Minnesota State Legislature made in 2023 regarding BWC data documenting incidents involving the use of deadly force. In our opinion, this revised policy is compliant with respect to the applicable data classification requirements.

RPD BWC Internal Compliance Verification

The RPD BWC Compliance section states that "[s]upervisors shall monitor for compliance with this policy" and that "[t]he Chief of Police, or his/her designee, shall develop procedures for supervisors to periodically review usage of the BWC and compliance with this policy, and review the procedures with supervisors on an annual basis." Captain Beck advised us that captains conduct monthly reviews of BWC usage and that all such reviews are logged in the Axon Evidence software as "review/audit." In addition, all access to BWC data is logged and supervisory personnel and the records supervisor are able to monitor such access.

RPD's BWC policy states that officers and department members "will only use Department-issued BWCs in the performance of official duties for this Department or when otherwise performing authorized law enforcement services as an employee of this Department (e.g., Contracted Police Services);" that those "who have been issued BWCs shall operate and use them in accordance with this policy;" and that they "shall conduct a function test of their issued BWC at the beginning of each shift to make sure the devices are operating properly." In the event of a malfunction, they are required to notify a supervisor and obtain a replacement "as soon as reasonably practicable."

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 RPD's BWC policy does provide guidance for certain instances involving personnel assigned to multi-jurisdictional task forces, it does not specifically address this new statutory requirement.

Prior to the issuance of this report, RPD 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.

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

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

RPD BWC Program and Inventory

RPD currently possesses 28 Axon Body 4 body-worn cameras.

The RPD 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.

RPD's BWC policy states that "[u]niformed officers should wear their issued BWC on their uniform shirt or jacket (if worn) in a position near their upper center chest area." Other personnel are directed to wear their issued BWC "in an approved, conspicuous location on their body." While the guidance for uniformed officers satisfies the requirement described in Clause 3 of the Policy section of this report – that a BWC be worn at or above the mid-line of the waist – the instructions for other personnel do not. Prior to the issuance of this report, RPD furnished a revised BWC policy that directs all officers and department members to "wear their issued BWC in a position near their upper center chest area to maximize the recording system's ability to record footage of their activity." In our opinion, this revised language meets the requirements of Clause 3.

Captain Beck 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, April 1, 2024, RPD maintained approximately 10,402.1 GB of BWC data.

RPD BWC Physical, Technological and Procedural Safeguards

RPD BWC data are initially recorded to a hard drive in each officer's BWC. Data from each BWC is then uploaded to Axon's Evidence.com Cloud Service via a physical docking station located at the Police Department. In the event the system is unable to auto-tag a video and an officer also fails to label the 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, as well as the ability to add or edit case numbers and titles. All BWC data access is logged automatically and available for audit purposes.

BWC data is only destroyed via an automated process upon the expiration of the retention period defined for the specific data classification in Evidence.com. There is no manual deletion of BWC data.

Enhanced Surveillance Technology

RPD currently employs BWCs with only standard audio/video recording capabilities. RPD has 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 RPD 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 RPD records.

Audit Conclusions

In our opinion, the Rogers Police Department's Body-Worn Camera Program is substantially compliant with Minnesota Statutes §13.825 and §626.8473.

Daniel E. Gazelka

Rampart Audit LLC

8/07/2024

APPENDIX A:

Rogers Police Department

Whe) Rogers PD Policy Manual - Jnuary 13, 2022

Portable Audio/Video Recorders

425.1 INTRODUCTION

With the goal of enhancing public trust and accountability to provide the highest level of professional service, the Rogers Police Department utilizes the advancement of technology. To further achieve this goal, body-worn cameras will be used for the purpose of documenting evidence and accurately capturing contacts between members of the Department and the public. The Rogers Police Department is committed to the utilization of body-worn cameras as a means to reach this goal.

425.2 PURPOSE AND SCOPE

The primary purpose of using body-worn cameras is to capture evidence arising from policencitizen encounters. This policy sets forth guidelines governing the use of body-worn cameras and administering the collected data. 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.

The use of this technology will add a higher level of transparency of the professional services provided by the Rogers Police Department. This device will also aid in the documentation of events to be used in an evidentiary manner. There needs to be an understanding that the camera view will not capture the entire incident or event, thus it cannot be construed that images are a complete representation of actions by officers and citizens.

425.2.1 DEFINITIONS

Definitions related to this policy include:

Activate - any process which causes the BWC system to transmit or store video or audio data outside of the buffering feature.

Adversarial - means a law enforcement or Department member 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.

Auto-tagging - the ability for the BWC data management system to automatically associate computer aided dispatch (CAD) events to BWC events.

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

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.

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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 tow truck, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

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.

Minnesota Government Data Practices Act (MGDPA) - refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.

Official duties - for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this Department.

Records retention schedule - refers to the General Records Retention Schedule for Minnesota

Cities.

Signal - a device and add-on feature of the BWC system that activates the BWC camera when an officer's firearm is removed from their duty holster. Additionally, a Signal is also integrated in the Department's Conducted Energy Weapons (TASER), and will activate the BWC when the TASER is switched to the "on" position.

Unintentional recorded footage - is a video and/or audio 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 value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in police Department 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.

425.3 POLICY

It is the policy of this Department to authorize and require the use of Department issued BWCs as set forth below, and to administer BWC data as provided by law. This policy governs the use of BWCs in the course of official duties. It does not apply to the use of squad-based mobile video (dash-cam) recording systems. The Chief of Police, or their designee, may supersede this policy by providing specific instructions for BWC use to individual officers and Department members, or providing specific instructions pertaining to particular events or specialized details.

425.4 USE AND DOCUMENTATION

(a) Officers and Department members will use only Department-issued BWCs in the performance of official duties for this Department or when otherwise performing authorized law enforcement services as an employee of this Department (e.g., Contracted Police Services).

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Officers and Department members who have been issued BWCs shall operate and use them in accordance with this policy.

Officers and Department members shall conduct a function test of their issued BWC at the beginning of each shift to make sure the devices are operating properly. Officers or Department members noting a malfunction during testing or at any other time shall promptly report the malfunction to the officer's or Department member's supervisor and obtain a functioning device as soon as reasonably practical.

Officers and Department members should wear their issued BWC in an approved, conspicuous location on their body. Uniformed officers shall wear their issued BWC on their uniform shirt or jacket (if worn) in a position near their upper center chest area. Officers and Department members performing uniformed duties and carrying a firearm shall utilize a signal device on their holster. Officers performing non-uniformed duties may wear a signal device at their discretion.

Officers and Department members must document BWC use and non-use as follows:

1. | Whenever an officer makes a recording, the existence of the recording shall be documented.
2. If an event that is required to be recorded under this policy is not captured or only a part of the activity is captured, the officer must document the circumstances and reasons for not recording in an incident report or CAD notes, and report it immediately to a supervisor. Supervisors shall review these reports and may initiate any corrective action deemed necessary. A supervisor's corrective action shall be documented and forward to the Captain.

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.
3. The total amount of recorded BWC data collected and maintained.
4. _ This policy, together with the records retention schedule.
5. | An accounting of when the Chief of Police or their designee allows for any

425.5.1 GENERAL WEARING deviation GUIDELINES of the policy, FOR WEARING as described AND in RECORDING section 425.3.

(a)

(b)

Uniformed officers and uniformed Department members shall wear a BWC.

Officers and Department members assigned to a non-uniformed position who wear plain clothes or civilian attire (e.g. detectives) shall wear a BWC as described below.

Officers and Department members in this section wearing a BWC shall activate a BWC as required below and may wear an approved BWC at any time a supervisor or

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(c)

1. | When involved in events described under 425.5.2(b) and there is adequate time to safely retrieve and don the BWC.

2. | When involved in events described under 425.5.2(b) and clearly identifiable as a police officer or Department member and wearing attire that would lead a reasonable person to believe they are an officer or Department member.

Examples include wearing a uniform or a jacket or vest with police markings or insignia.

Non-uniformed and uniformed officers assigned to School Resource Officer (SRO)

425.5.2 RECORDING duties shall wear a BWC. SRO's shall activate a BWC in accordance with 425.5.2(b).

(a) This policy is not intended to described every possible situation in which the recorder should be used, although there are many situations where its use is appropriate.

Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident and/or public interaction.

Officers shall activate the BWC when anticipating that they will be involved in, become involved in, or witness other officers of this agency or any other agency

Rampart Audit, LLC

involved in a pursuit, 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.

Officers and Department members have discretion to record or not record general citizen contacts.

Officers and Department members have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded. If asked, officers and Department members should inform those inquiring that audio-video recording equipment (BWC) is in use, unless doing so would be unsafe for the officer, Department member or members of the public.

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 or Department member 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, including audio, is discontinued while an investigation, response, or incident is ongoing, officers or Department members shall state the reasons for ceasing the recording on camera before deactivating their BWC or muting the audio.

If circumstances change, officers shall reactivate their cameras or audio as required by this policy to capture information having evidentiary value.

Officers and Department members shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.

Notwithstanding any other provision in this policy, officers and Department members shall not use their BWCs to record personnel during non-enforcement related

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or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.

(i) | Officers or Department members shall notify their immediate supervisor of any recorded event to be of value for administrative review.

425.5.3 WEARING AND RECORDING EXCEPTIONS

(a) Officers of this Department working in an undercover capacity, or officers who are assigned to a multi-jurisdictional task force that routinely have officers working in an undercover capacity, will adhere to the BWC policy adopted by the task force agency they represent, unless otherwise noted by the Chief of Police. Any member assigned to the Anoka-Hennepin Narcotics and Violent Crimes Task Force shall follow the section of the Task Force Operating Procedures and Guidelines Manual relating to Portable Audio/Video Recording Devices while assigned to the Task Force and working in that capacity. Interactions with confidential informants should generally not be recorded.

(b) Officers assigned to command level or administrative duties as designated by the Chief of Police are generally not required to wear a BWC.

c) Officers or Department members wearing a uniform for ceremonies, funerals, awards presentation or other similar events are not required to wear a BWC.

d) Officers and Department members attending training, meetings, presentations, or court proceedings are not required to wear a BWC.

e) Volunteer Reserve Officers are not required to wear a BWC.

f) All officers and Department members 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, section 425.4 (f)(2). Officers and Department members shall activate their BWC once it is safe and practical to do so if a portion of the events may still be captured on their BWC.

425.6 SPECIAL GUIDELINES FOR RECORDING

Officers or Department members may, in the exercise of sound discretion, determine:

(a) Touse 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 or not use their BWCs to take recorded statements from persons believed to be victims of or witnesses to crimes. Officers must consider the needs of the investigation and the individual. Officers may choose alternative methods to recording or documenting these statements if they believe a BWC may inhibit the investigation.

This should include, but not be limited, to the following types of incidents:

1. Criminal Sexual Conduct
2. Human Trafficking
3. Juveniles who are the victim or witness to a violent crime or abuse

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(c) To use or not use their BWC to take recorded statements from persons believed to besuspects in a crime if the presence of a BWC could inhibit the person from providing a voluntary statement. Alternative recording methods should be considered. Nothing in this section exempts officers from recording statements as required by law.

For plain clothes officers (e.g., detectives), to not utilize a BWC for recording statements from suspects, victims, or witnesses when the officer or Department member feels the presence of the BWC is not the best method for documenting the statement. Alternative recording methods should be considered. Nothing in this section exempts officers from recording statements as required by law.

To not record in hospitals, detox or mental health care facilities, juvenile detention centers, and jails unless the officer anticipates witnessing a criminal event, being involved in or witnessing an adversarial encounter, or use-of-force incident.

To not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. 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, 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.

To deactivate their BWC during the transport of an arrestee or other individual if the person is secured in the rear seat of the squad car and the squad-based audio/video system is recording.

To deactivate their BWC while on a perimeter position until such time an officer or Department member anticipates witnessing a criminal event, being involved in or witnessing an adversarial encounter, use-of-force incident, or anything of evidentiary value.

Many portable recorders, including BWCs and audio/video transmitters, emit radio waves that could detonate an explosive device. Therefore, these devices should not be used where an explosive device may be present.

(a) Each officer or Department member using a BWC is responsible for transferring or assuring the proper transfer of the data from his/her BWC by the end of their shift. However, if the officer or Department member is involved in an officer-involved shooting, critical incident, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor shall take custody of the BWC and assume responsibility for transferring the data from it as directed by the Chief of Police or designee.

The BWC data management system has the ability to associate computer aided dispatch (CAD) call types to the recordings in the BWC data management system and this is known as auto-tagging. Officers and Department members shall verify that the proper CAD code is associated to each event. Officers and Department members shall verify that the proper CAD event type is associated with the BWC data as soon

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(c) If the event contains any of the following types of information within an event, the officer or Department member shall change the event label to accurately reflect the required retention:

1. Evidentiary/Arrest/Criminal - An event where 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, arrest, or in considering an allegation against a law enforcement agency or officer.
2. Non-evidentiary - The event did not contain information of evidentiary value and does not meet any other categories.
3. Critical Incident - An event where law enforcement action causes substantial injury, great bodily harm, or death. This also includes the discharge of a firearm by a law enforcement towards another person.
4. Traffic - Warning - An event where the officer or Department member provides a written or verbal warning for a violation of traffic or parking laws.
5. Traffic —Citation - An event where an officer or Department member issues a citation for violation of traffic or parking laws.
6. | Squad Crash - A motor vehicle crash involving a vehicle owned or operated by the police Department.
7. | Adversarial —An event involving contact with a citizen who is adversarial, as defined in section 425.2.1, and the event does not meet any other categories.
8. Pending Review - The event requires further review by a supervisor or records for proper categorization.
9. Test/Demo/Accidental - The event was recorded to test the functionality of the BWC, to demonstrate the device, or was inadvertently activated and a recording was not required.
10. Uncategorized - The event has not been categorized.
11. Use of Force - An event where a Department member applies force as defined

in Policy 300.

(d) Officers and Department members should consult with a supervisor if in doubt as to the appropriate labeling.

(e) Labeling and flagging designations may be corrected or amended based on additional information.

425.8 ADMINISTERING ACCESS TO BWC DATA

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

1. Any person or entity whose image or voice is documented in the data
2. The officer who collected the data

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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) 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 if practicable. 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.

5. However, if another provision of the MGDPA 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.

(e) Access to BWC data by non-employees: Officers and Department members shall refer members of the media or public seeking access to BWC data to a Records Management Technician, 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 data about him or herself, and other data subjects in the recording, but access shall not be granted:

- I. If the data was collected or created as part of an active investigation. To portions of the data that the agency would otherwise be prohibited by
- il. law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82, subd. 17.

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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:

il. Data on other individuals in the recording who do not consent to the release must be redacted.

iii. | Data that would identify undercover officers must be redacted.

iv. Data on other officers who are not undercover, and who are on-duty and engaged in the performance of official duties, may not be redacted.

(f) Access by peace officers and law enforcement employees: No employee may have access to the Department's BWC data except for legitimate law enforcement or data administration purposes.

1. 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. Additionally, members may review video footage of a typical law enforcement incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident. The exception will be officer-involved shootings or other critical incidents. The Chief of Police, or his/her designee, will determine whether officers involved in an officer-involved shooting or critical incident can review BWC video prior to preparing a written report or providing a statement. This decision will be made on a case by case basis.

2. | Agency personnel shall document their access to stored BWC data at the time of each access. 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 to public and social media websites.

3. 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) Other authorized disclosures of data: Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, 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 data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.
2. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

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425.9 Portable DATA Audio/Video SECURITY Recorders SAFEGUARDS Rogers PD Policy Manual - January 13, 2022

- (a)
- (b)
- (c)
- (d)

Officers or Department members shall not use the BWC for personal use or for any other reason inconsistent with this policy.

Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to capture, access, or view audio, video, or photographic data to include agency BWC data while on-duty. Only devices authorized by the Department shall be used.

Officers or Department members shall not intentionally edit, alter, or erase any BWC recording.

As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time,
425.10 AGENCY this agency USE shall DATA obtain an independent biennial audit of its BWC program.

(a)

(b)

Supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to an inquiry or concern about officer misconduct or performance.

Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.

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 425.11 DATA trainees' RETENTION performance.

(a)

(b)

All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.

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.

Data that documents the use of deadly force by a peace officer, or force of a sufficient type to require supervisory review, must be retained according to the Department's record retention schedule.

Data documenting circumstances that have given rise to a formal inquiry against an officer must be retained according to the Department's record retention schedule.

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.

Rampart Audit, LLC

Subject to Part g (below), all other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training, shall be

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(g) Upon written request by a BWC data subject, the Department shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The Department will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.

(h) The Department shall maintain an inventory of BWC recordings having evidentiary value.

(i) ©The Department will post this policy, together with its Records Retention Schedule, on its website.

425.12 COMPLIANCE

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.

The Chief of Police, or his/her designee, shall develop procedures for supervisors to periodically review usage of the BWC and compliance with this policy, and review the procedures with supervisors on an annual basis.

425.13 TRAINING

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

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APPENDIX B:

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425.1 INTRODUCTION

With the goal of enhancing public trust and accountability to provide the highest level of professional service, the Rogers Police Department utilizes the advancement of technology. To further achieve this goal, body-worn cameras will be used for the purpose of documenting evidence and accurately capturing contacts between members of the Department and the public. The Rogers Police Department is committed to the utilization of body-worn cameras as a means to reach this goal.

425.2 PURPOSE AND SCOPE

The primary purpose of using body-worn cameras is to capture evidence arising from police/citizen encounters. This policy sets forth guidelines governing the use of body-worn cameras and administering the collected data. 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.

The use of this technology will add a higher level of transparency of the professional services provided by the Rogers Police Department. This device will also aid in the documentation of events to be used in an evidentiary manner. There needs to be an understanding that the camera view will not capture the entire incident or event, thus it cannot be construed that images are a complete representation of actions by officers and citizens.

425.2.1 DEFINITIONS

Definitions related to this policy include:

Activate - any process which causes the BWC system to transmit or store video or audio data outside of the buffering feature.

Adversarial - means a law enforcement or Department member 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.

Auto-tagging - the ability for the BWC data management system to automatically associate computer aided dispatch (CAD) events to BWC events.

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

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.

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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 tow truck, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

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.

Minnesota Government Data Practices Act (MGDPA) - refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.

Official duties - for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this Department.

Records retention schedule - refers to the General Records Retention Schedule for Minnesota

Cities.

Signal - a device and add-on feature of the BWC system that activates the BWC camera when an officer's firearm is removed from their duty holster. Additionally, a Signal is also integrated in the Department's Conducted Energy Weapons (TASER), and will activate the BWC when the TASER is switched to the "on" position.

Unintentional recorded footage - is a video and/or audio 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 value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in police Department 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.

425.3 POLICY

It is the policy of this Department to authorize and require the use of Department issued BWCs as set forth below, and to administer BWC data as provided by law. This policy governs the use of BWCs in the course of official duties. It does not apply to the use of squad-based mobile video (dash-cam) recording systems. The Chief of Police, or their designee, may supersede this policy by providing specific instructions for BWC use to individual officers and Department members, or providing specific instructions pertaining to particular events or specialized details.

425.4 USE AND DOCUMENTATION

(a) Officers and Department members will use only Department-issued BWCs in the performance of official duties for this Department or when otherwise performing authorized law enforcement services as an employee of this Department (e.g., Contracted Police Services).

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(b)

(d)

(9)

Officers and Department members who have been issued BWCs are mandated to wear and operate the system while performing law enforcement activities under the command and control of another Chief Law Enforcement Officer or Federal Law Enforcement official.

Officers and Department members shall conduct a function test of their issued BWC at the beginning of each shift to make sure the devices are operating properly. Officers or Department members noting a malfunction during testing or at any other time shall promptly report the malfunction to the officer's or Department member's supervisor and obtain a functioning device as soon as reasonably practical.

Officers and Department members should wear their issued BWC in an approved, conspicuous location on their body. Officers and department members shall wear their issued BWC in a position near their upper center chest area to maximize the recording system's ability to record footage of their activity.

Officers and Department members performing uniformed duties and carrying a firearm shall utilize a signal device on their holster. Officers performing non-uniformed duties may wear a Signal device at their discretion.

Officers and Department members must document BWC use and non-use as follows:

1. | Whenever an officer makes a recording, the existence of the recording shall be documented.
2. If an event that is required to be recorded under this policy is not captured or only a part of the activity is captured, the officer must document the circumstances and reasons for not recording in an incident report or CAD notes, and report it immediately to a supervisor. Supervisors shall review these reports and may initiate any corrective action deemed necessary. A Supervisor's corrective action shall be documented and forward to the Captain.

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.

3. The total amount of recorded BWC data collected and maintained.

4. _ This policy, together with the records retention schedule.

5. An accounting of when the Chief of Police or their designee allows for any

425.5.1 425.5 GENERAL WEARING deviation GUIDELINES of the policy, FOR WEARING as described AND in RECORDING section 425.3.

(a)

(b)

Uniformed officers and uniformed Department members shall wear a BWC.

Officers and Department members assigned to a non-uniformed position who wear

Copyright Published Lexipol, with permission LLC plain 2024/06/26, by clothes Rogers All Police Rights or Department civilian Reserved. attire (e.g. detectives) shall wear Portable a BWC Audio/Video as described Recorders below. - 3

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(c)

Officers and Department members in this section wearing a BWC shall activate a BWC as required below and may wear an approved BWC at any time a supervisor or member believes the device may be useful.

1. | When involved in events described under 425.5.2(b) and there is adequate time to safely retrieve and don the BWC.

2. | When involved in events described under 425.5.2(b) and clearly identifiable as a police officer or Department member and wearing attire that would lead a reasonable person to believe they are an officer or Department member.

Examples include wearing a uniform or a jacket or vest with police markings or insignia.

Non-uniformed and uniformed officers assigned to School Resource Officer (SRO)

425.5.2 RECORDING duties shall wear a BWC. SRO's shall activate a BWC in accordance with 425.5.2(b).

(a)

(b)

(9)

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate.

Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident and/or public interaction.

Officers shall activate the BWC when anticipating that they will be involved in, become involved in, or witness other officers of this agency or any other agency involved in a pursuit, 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.

Officers and Department members have discretion to record or not record general citizen contacts.

Officers and Department members have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded. If asked, officers and Department members should inform those inquiring that audio-video recording equipment (BWC) is in use, unless doing so would be unsafe for the officer, Department member or members of the public.

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 or Department member 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, including audio, is discontinued while an investigation, response, or incident is ongoing, officers or Department members shall state the reasons for ceasing the recording on camera before deactivating their BWC or muting the audio.

If circumstances change, officers shall reactivate their cameras or audio as required by this policy to capture information having evidentiary value.

Officers and Department members shall not intentionally block the BWC's audio or

Copyright Published Lexipol, with permission LLC visual 2024/06/26, by recording Rogers All Police Rights Department functionality Reserved. to defeat the purposes of this Portable policy. Audio/Video Recorders -4

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(h)

(i)

Notwithstanding any other provision in this policy, officers and Department members shall not use their BWCs to record personnel during non-enforcement related activities, such as pre and post-shift time in locker rooms, roll call, meal breaks, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.

Officers or Department members shall notify their immediate supervisor of any 425.5.3 WEARING recorded AND event RECORDING to be of value EXCEPTIONS for administrative review.

(a) Officers of this Department working in an undercover capacity, or officers who are assigned to a multi-jurisdictional task force that routinely have officers working in an undercover capacity, will adhere to the BWC policy adopted by the task force agency they represent, unless otherwise noted by the Chief of Police. Any member assigned to the Anoka-Hennepin Narcotics and Violent Crimes Task Force shall follow the section of the Task Force Operating Procedures and Guidelines Manual relating to Portable Audio/Video Recording Devices while assigned to the Task Force and working in that capacity. Interactions with confidential informants should generally not be recorded. Officers assigned to command level or administrative duties as designated by the Chief of Police are generally not required to wear a BWC.

Officers or Department members wearing a uniform for ceremonies, funerals, awards presentation or other similar events are not required to wear a BWC.

Officers and Department members attending training, meetings, presentations, or court proceedings are not required to wear a BWC.

Volunteer Reserve Officers are not required to wear a BWC.

All officers and Department members 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, section 425.4 (f)(2). Officers and Department members shall activate their BWC once it is safe and practical to do so if a portion of the events may still be captured

Wireless A. 425.6 devices. short aspect. trigger, Copyright Published policy. Each B. Activation Activation range BWC Lexipol, with Auto-triggers AUTO-TRIGGER it While Te intrference permission is LLC is on to still of auto-triggering programed 2024/06/26, the indicate their the the byRogers intention vehicles patrol BWC. responsibility are: distance All video. Police Rights to OF vehicles Department work of forward Reseved. device BWC The tand in of device Department (Code-3 unpredictable conjunction are the facing programed officer requires emergency position. to with tossues automatically ensure reasonable) to the send squad MVR may a a recoding interfere systems wireless lights. close start Portable proximity. a is with that signal video activehe feature Audio/Video to record this as the required auto-activation auto-triggering BWC via Recorders the within by auto the- a 5

Rogers Police Department

425.7 Portable Officers C. DActivation Speed SPECIAL or Audio/Video of Department the of the patrol GUIDELINES Taser vehicle members Recorders 7 switch. reaches FOR may, Rogers RECORDING 90 in the MPH.D exercise Policy Manual of sound discretion, determine:

- (a)
- (b)
- (d)
- (g)
- (h)

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.

To use or not use their BWCs to take recorded statements from persons believed to be victims of or witnesses to crimes. Officers must consider the needs of the investigation and the individual. Officers may choose alternative methods to recording or documenting these statements if they believe a BWC may inhibit the investigation.

This should include, but not be limited, to the following types of incidents:

1. Criminal Sexual Conduct

2. Human Trafficking

3. Juveniles who are the victim or witness to a violent crime or abuse

To use or not use their BWC to take recorded statements from persons believed to be suspects in a crime if the presence of a BWC could inhibit the person from providing a voluntary statement. Alternative recording methods should be considered. Nothing in this section exempts officers from recording statements as required by law.

For plain clothes officers (e.g., detectives), to not utilize a BWC for recording statements from suspects, victims, or witnesses when the officer or Department member feels the presence of the BWC is not the best method for documenting the statement. Alternative recording methods should be considered. Nothing in this section exempts officers from recording statements as required by law.

To not record in hospitals, detox or mental health care facilities, juvenile detention centers, and jails unless the officer anticipates witnessing a criminal event, being involved in or witnessing an adversarial encounter, or use-of-force incident.

To not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. 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, 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.

To deactivate their BWC during the transport of an arrestee or other individual if the person is secured in the rear seat of the squad car and the squad-based audio/video system is recording.

To deactivate their BWC while on a perimeter position until such time an officer or

Copyright Published Lexipol, with permission LLC Department 2024/06/26, by Rogers All Police Rights member Department Reserved. anticipates witnessing a criminal Portable event, Audio/Video being involved Recorders in -or 6

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witnessing an adversarial encounter, use-of-force incident, or anything of evidentiary value.

Many portable recorders, including BWCs and audio/video transmitters, emit radio waves that could detonate an explosive device. Therefore, these devices should not be used where an explosive device may be present.

(a)

(b)

Each officer or Department member using a BWC is responsible for transferring or assuring the proper transfer of the data from his/her BWC by the end of their shift. However, if the officer or Department member is involved in an officer-involved shooting, critical incident, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor shall take custody of the BWC and assume responsibility for transferring the data from it as directed by the Chief of Police or designee.

The BWC data management system has the ability to associate computer aided dispatch (CAD) call types to the recordings in the BWC data management system and this is known as auto-tagging. Officers and Department members shall verify that the proper CAD code is associated to each event. Officers and Department members shall verify that the proper CAD event type is associated with the BWC data as soon as practical.

If the event contains any of the following types of information within an event, the officer or Department member shall change the event label to accurately reflect the required retention:

1. Evidentiary/Arrest/Criminal - An event where 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, arrest, or in considering an allegation against a law enforcement agency or officer.
2. Non-evidentiary - The event did not contain information of evidentiary value and does not meet any other categories.

3. Critical Incident - An event where law enforcement action causes substantial injury, great bodily harm, or death. This also includes the discharge of a firearm by a law enforcement towards another person.
4. Traffic - Warning - An event where the officer or Department member provides a written or verbal warning for a violation of traffic or parking laws.
5. Traffic —Citation - An event where an officer or Department member issues a citation for violation of traffic or parking laws.
6. | Squad Crash - A motor vehicle crash involving a vehicle owned or operated by the police Department.
7. Adversarial —An event involving contact with a citizen who is adversarial, as

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(d)

(e)

8. Pending Review - The event requires further review by a supervisor or records for proper categorization.
9. Test/Demo/Accidental - The event was recorded to test the functionality of the BWC, to demonstrate the device, or was inadvertently activated and a recording was not required.
10. Uncategorized - The event has not been categorized.
11. Use of Force - An event where a Department member applies force as defined in Policy 300.
12. Medical- An event where law enforcement responds to aid in a medical situation. Officers and Department members should consult with a supervisor if in doubt as to the appropriate labeling.

Labeling and flagging designations may be corrected or amended based on additional

425.9 ADMINISTERING information. ACCESS TO BWC DATA

(a)

(b)

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

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)

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.

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.

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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 if practicable. 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.

5. However, if another provision of the MGDPA 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.

(e) Access to BWC data by non-employees: Officers and Department members shall refer members of the media or public seeking access to BWC data to a Records Management Technician, 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 data about him or herself, and other data subjects in the recording, but access shall not be granted:

L. If the data was collected or created as part of an active investigation. To portions of the data that the agency would otherwise be prohibited by il. 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:

(b) Data on other individuals in the recording who do not consent to the release must be redacted.

(c) Data that would identify undercover officers must be redacted.

(d) Data on other officers who are not undercover, and who are on-duty and

engaged in the performance of official duties, may not be redacted.

(f) Access by peace officers and law enforcement employees: No employee may have access to the Department's BWC data except for legitimate law enforcement or data administration purposes.

1. 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. Additionally, members may review video footage of a typical law enforcement incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident. The exception will be officer-involved shootings or other critical incidents. The Chief of Police, or his/her designee, will determine whether officers involved in an officer-involved shooting or critical incident can review

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BWC video prior to preparing a written report or providing a statement. This decision will be made on a case by case basis.

2. | Agency personnel shall document their access to stored BWC data at the time of each access. 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 to public and social media websites.

3. 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) Other authorized disclosures of data: Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, 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 data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.
2. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

(nh) Deadly Force Incidents: 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 following individuals, upon their request, to inspect all portable recording system data:

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

The portable recording system data should not be redacted more than what is required by law, documenting the incident within five days of the request. Except as otherwise provided for in (i).

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 as allowed by Minn. Stat. § 13.82, subd. 7.

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 what is required by law, documenting the incident no later than 14 days after the incident,

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425.10 Portable § unss interfere 13.82,DATA Audio/Video the with subd. SECURITY chief an 7. law ongoing Recorders enforcement SAFEGUARDS investigation, Rogers officer in PD asserts which Policy the Manual in writing data remains that the classified public classification under Minn. would Stat.

(a)

(b)

(c)

(d)

Officers or Department members shall not use the BWC for personal use or for any other reason inconsistent with this policy.

Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to capture, access, or view audio, video, or photographic data to include agency BWC data while on-duty. Only devices authorized by the Department shall be used.

Officers or Department members shall not intentionally edit, alter, or erase any BWC recording.

As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time,

425.11 AGENCY this agency USE shall DATA obtain an independent biennial audit of its BWC program.

(a)

(b)

Supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to an inquiry or concern about officer misconduct or performance.

Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.

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 425.12 DATA trainees' RETENTION performance.

- (a)
- (b)
- (c)
- (d)

All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.

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.

Data that documents the use of deadly force by a peace officer, or force of a sufficient type to require supervisory review, must be retained according to the Department's record retention schedule.

Data documenting circumstances that have given rise to a formal inquiry against an

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(e) 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.

(f) | Subject to Part g (below), all other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training, shall be destroyed after 90 days.

(g) Upon written request by a BWC data subject, the Department shall retain a recording pertaining to that subject for an additional time period requested by the subject of up

to 180 days. The Department will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.

(nh) The Department shall maintain an inventory of BWC recordings having evidentiary value.

(i) |The Department will post this policy, together with its Records Retention Schedule, on its website.

425.13 COMPLIANCE

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.

The Chief of Police, or his/her designee, shall develop procedures for supervisors to periodically review usage of the BWC and compliance with this policy, and review the procedures with supervisors on an annual basis.

425.14 TRAINING

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

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