



INDEPENDENT AUDITOR'S REPORT

Duluth Police Department



SEPTEMBER 25TH, 2024
RAMPART AUDIT LLC

Audit Overview and Recommendations

Dear Duluth City Council and Chief Ceynowa:

We have audited the body-worn camera (BWC) program of the Duluth Police Department (DPD) for the two-year period ended 7/14/2024. 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 Duluth Police Department. Our responsibility is to express an opinion on the operations of this program based on our audit.

On July 30, 2024, Rampart Audit LLC (Rampart) met with Lt. Steve Ring and Digital Evidence Technician Eric Isackson, both of whom provided information about DPD'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 DPD's recordkeeping.

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

DPD 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.

Lt. Ring advised us that while Duluth PD's BWC program was implemented in 2014, which predates the public comment and public hearing requirements, he believed there may have been some form of public hearing related to the program. While he was unable to confirm that a public hearing was held, Lt. Ring subsequently provided documentation showing that, in April of 2016, Duluth PD did solicit stakeholder feedback regarding its ongoing BWC program. Lt. Ring submitted letters of support for the BWC program's continuation from the Duluth City Attorney's Office, the St. Louis County Attorney's Office, the Public Defender's Office, the All Nations Indigenous Center, the Cross-Cultural Alliance of Duluth and the Duluth Citizen Review Board.

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

Because §626.8473 Subd. 2 does not contain language grandfathering existing BWC programs at the time of the statute's implementation, Rampart recommends that Duluth PD hold an after-the-fact public hearing and solicit public feedback to ensure these requirements are satisfied.

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 DPD's BWC policy on the Police Department page of the City of Duluth' website. In our opinion, Duluth Police Department is compliant with the requirements of §626.8473 Subd. 3(a).

DPD BWC WRITTEN POLICY

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

DPD BWC Data Retention

Minn. Stat. §13.825 Subd. 3(a) establishes a minimum retention period of 90 days for all BWC data not subject to a longer retention period, while §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. Finally, Subd. 3(c) requires that an agency retain BWC recordings for an additional period of up to 180 days when so requested in writing by a data subject.

The Data Retention section of Duluth Police Department's BWC policy states that: "[a]ll BWC data shall be retained for a minimum period of 90 days." This section also includes the required retention period for each of the individual data categories listed above.

In our opinion, Duluth PD's BWC policy meets the retention requirements contained in Minn. Stat. §13.825 Subd. 3.

The System Operations Standards section of DPD's BWC policy states that: "LEOs and civilian employees shall not intentionally erase, alter, modify or tamper with BWC data or metadata. Only a supervisor, BWC administrator, BWC technician, or other approved designee, may erase media in accordance with this policy." Taken in conjunction with the mandatory language contained in the retention periods described above, it is our opinion that DPD's BWC policy satisfies the requirement described in Clause 2 of the Policy section of this report that a BWC policy prohibit altering, erasing or destroying BWC data prior to its scheduled expiration date; however, we recommend adding language to state explicitly that no BWC data or metadata may be deleted prior to the expiration of the associated retention period.

DPD employs Axon 3 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 by command staff or evidence personnel as needed. If an officer fails to assign a data classification, the default retention period is 90 days.

DPD's BWC policy states that:

Each LEO and civilian employee using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her BWC by placing it into the docking station by the end of that LEO's or civilian employee's shift. However, if the LEO or civilian employee 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 LEO's BWC and assume the responsibility for transferring the data from it.

The policy further states that "LEOs and civilian employees should label the BWC data files at the time of video capture or transfer to storage..."

Lt. Ring advised that the Axon body-worn cameras utilize physical docking stations located at the Duluth Police Department.

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

DPD BWC Data Destruction

As discussed above, DPD utilizes Axon's Evidence.com for storage, with retention periods determined based on the classification assigned to BWC data. Lt. Ring advised us that videos assigned to classifications with a retention period of 90 days are deleted automatically by the Axon software upon expiration of the retention period. All videos assigned to classifications with a retention period longer than 90 days are reviewed by Evidence personnel upon the expiration of the required retention period and manually purged in accordance with DPD's evidence retention policy.

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, DPD's written BWC policy is compliant with respect to the applicable data destruction requirements.

DPD BWC Data Access

The Access to BWC Data section of DPD's BWC policy states that, "[o]fficers shall refer members of the media or public seeking access to BWC data to the data practices designee, who shall process the request in accordance with the MGDPA [Minnesota Government Data Practices Act] and other governing laws."

Lt. Ring advised us that that all requests for BWC data from the public or media are made in writing. Requests can be made using Duluth Police Department's police data request form, or via email. Requests are processed by the Data Release Coordinator unless they involve a complaint against an officer, in which case Lt. Ring processes the request. BWC video is most commonly provided to members of the public via optical media such as CD or 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. A review of Part F, Access to BWC data by non-employees, of the Access to BWC Data section of Duluth PD's BWC policy shows that DPD has incorporated these requirements into its written policy.

Requests for BWC data from other law enforcement agencies are primarily submitted either verbally or via email to the Data Release Coordinator; however, Lt. Ring processes any requests involving serious incidents. BWC is normally shared with other law enforcement agencies via email containing a secure Evidence.com internet link.

Rampart recommends requiring that all requests for BWC video from other law enforcement agencies be made in writing.

DPD's BWC policy 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." In addition, "BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law." Prosecutors and probation personnel follow the same procedure as other law enforcement personnel to request BWC data.

Lt. Ring indicated that DPD 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. Lt. Ring

also indicated that DPD will investigate the feasibility of adding a written reminder of the receiving agency's §13.825 Subd. 7 and Subd. 8 obligations to each Evidence.com email.

Rampart recommends obtaining written acknowledgements of these obligations.

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

DPD BWC Data Classification

Duluth PD's BWC Policy states that:

All recorded media, recorded images and audio recordings are the property of the Department and are government data subject to the provisions of the MGDPA. Dissemination outside of the Department is strictly prohibited except to the extent permitted or required under the MGDPA... or other applicable law.

The policy defines data subjects "for purposes of administering access to BWC data," and states that "BWC data are presumptively private." The policy 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. DPD BWC Policy also identifies certain categories of BWC data that are public.

As noted in the preceding section, Duluth PD has incorporated the changes the Minnesota State Legislature made in 2023 regarding BWC data documenting incidents involving the use of deadly force, including the requirement that, subject to limited redaction and certain exceptions, such BWC data be released to the public no later than 14 days after the incident.

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

DPD BWC Internal Compliance Verification

The DPD BWC Compliance section states that "[s]upervisors shall monitor for compliance with this policy." Lt. Ring advised that supervisors review use-of-force incidents, complaints and commendations, but do not otherwise perform regular reviews of BWC data, usage or access. Minn. Stat. §626.8473 Subd. 12 requires that a BWC policy include "procedures to ensure compliance and address violations of the policy, which must include, at a minimum, supervisory or internal audits and reviews..."

Rampart recommends that Duluth PD add language to their BWC policy requiring supervisors to conduct reviews or internal audits on a regular basis. All access to BWC data is logged in the Axon Evidence software, and supervisory reviews should include monitoring of such access.

The Policy section of DPD's BWC policy states that "[i]t is the goal of the Duluth Police Department to use mobile video recording (BWC) technology to more effectively fulfill the department's mission and to ensure these systems are used securely, efficiently and in compliance with the law." The Use of Personal Digital Recording Devices section states that:

LEOs and civilian employees are prohibited from using personal video recording equipment in lieu of their Department-issued BWCs while on-duty[.] However, the Department recognizes that, in rare or unforeseen situations, it may be necessary for LEOs to use their personal video recording equipment to record or collect evidence. In such an event, the LEO must upload that media into SHIELD or save to a DVD and place into evidence in accordance with Department policy and procedure.

Minn. Stat. §13.825 Subd. 6 states: “While on duty, a peace officer may only use a portable recording system issued and maintained by the officer’s agency in documenting the officer’s activities.”

Lt. Ring advised us that in addition to the Axon BWC, each officer is issued a cellular phone owned and maintained by Duluth PD that is capable of recording video. This phone would ordinarily be employed as an emergency back-up recorder in the event of a BWC failure when responding to a call; however, it is also foreseeable that an off-duty officer might find it necessary to intervene in an emergency situation, such as witnessing an assault or motor vehicle crash, and to do so without a DPD-issued device in his or her possession. Lt. Ring advised us that once an officer identifies him- or herself as a Duluth Police Officer in such a situation, he or she is then considered by policy to be on duty. In the absence of an available DPD-issued device, video from a personally-owned device would be preferable to no video in documenting the incident.

Rampart has previously noted similar concerns from rural agencies that may have to call-in off-duty personnel to respond to emergencies, such as a domestic assault-in-progress, when those personnel may not have the opportunity to retrieve an agency-issued recording device prior to responding to the scene. Nevertheless, §13.825 Subd. 6 is unequivocal in its requirement that an officer may only use a device issued and maintained by his or her agency while on duty; consequently, we recommend that Duluth PD remove the language authorizing the use of personally-owned devices.

Prior to the issuance of this report, Duluth PD issued a revised BWC policy that removes the language authorizing the use of personally-owned devices.

As discussed in Clause 4 of the Policy section of this report, the 2023 legislative changes require that an agency’s BWC policy must require that an officer assigned a BWC 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. The LEO Responsibilities section of DPD’s BWC policy includes language to address this new requirement: “...LEOs assigned a BWC must wear and operate the BWC in compliance with this policy while performing activities under the command and control of another chief law enforcement officer or federal law enforcement official...”

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

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

DPD BWC Program and Inventory

DPD currently possesses 173 Axon 3 body-worn cameras, though they anticipate transitioning to the Axon 4 model in the near future.

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

As discussed in Clause 3 of the Policy section of this report, the 2023 legislative changes require that an agency's BWC policy must specify that a BWC be worn at or above the mid-line of the waist. The LEO Responsibilities section of DPD's BWC policy states:

LEOs that are issued a body-worn BWC will wear the BWC as part of their uniform and operate and use them consistent with this policy... The BWC shall 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 LEO's activities.

Lt. Ring advised us that while all Duluth PD Officers are issued BWCs, investigators are given discretion with regard to their use, except in cases of planned enforcement activities, where usage is mandatory. In our opinion, the language above satisfies the requirement that, whenever BWC usage is required, officers are instructed to wear the device at or above the mid-line of the waist.

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

As of July 15, 2024, DPD maintained 57,917 BWC videos.

DPD BWC Physical, Technological and Procedural Safeguards

DPD 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. A USB cable can be used to dock a BWC to a PC as a backup transfer method.

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. Officers also have the ability to view non-restricted videos created by other personnel; however, all BWC data access is logged automatically and available for audit purposes.

Enhanced Surveillance Technology

DPD currently employs BWCs with only standard audio/video recording capabilities. DPD 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.

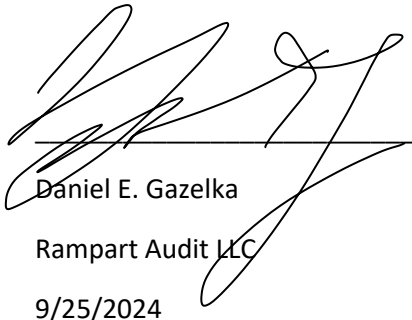
If DPD should obtain such enhanced technology in the future, Minnesota Statute §13.825 Subd. 10 requires notice to the Minnesota Bureau of Criminal Apprehension within 10 days. This notice must include a description of the technology and its surveillance capability and intended uses.

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 DPD records.

Audit Conclusions

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



Daniel E. Gazelka
Rampart Audit LLC
9/25/2024

APPENDIX A:

Policy 432 Duluth Police Department Duluth PD Policy Manual Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 1 Body Worn Cameras 432.1 PURPOSE AND SCOPE The Duluth Police Department has equipped law enforcement operators and civilian personnel with Body Worn Camera (BWC) systems. The purpose of this policy is to provide guidelines for the use, management, access, storage, retrieval and retention of audio-visual media recorded by BWC systems as prescribed 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 (dash cam) recording systems. The chief or chief's designee may supersede this policy by providing specific instructions for BWC 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. The chief or designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

432.1.1 DEFINITIONS Definitions related to this policy include: Activate - Any process that causes the BWC system to transmit or store audio-visual signals. Body Worn Camera (BWC) - A device worn by a LEO that is capable of both video and audio recordings of the LEO's activities and interactions with others or collecting digital multimedia evidence as part of an investigation as provided in Minn. Stat. 13.825. Law Enforcement Operator (LEO) - Primarily a licensed peace officer but on occasion may be a non-licensed representative of the Duluth Police Department who is authorized and assigned to operate BWC equipment. MGDPA - The Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. PODPA – The Peace Officer Discipline Procedures Act, Minnesota Statutes Section 626.89. Property and Evidence Technician - Personnel certified or trained in receiving and storing evidence and property, maintaining property inventory reports with proper "chain of custody" notations and any and all actions associated with the property or evidence. BWC Administrator – Typically a Sergeant or a designee, who assigns, tracks and maintains BWC equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor. BWC Technician - Personnel certified or trained in the operational use and repair of BWCs, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures. Recorded media – Audio-visual signals that are recorded or stored.

Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 2 Records Retention Schedule - Refers to the General Records Retention Schedule for Minnesota Cities.

432.2 POLICY It is the goal of the Duluth Police Department to use mobile video recording (BWC) technology to more effectively fulfill the department's mission and to ensure these systems are used securely, efficiently and in compliance with the law.

432.3 MVR OPERATIONAL OBJECTIVES The Duluth Police Department has adopted the use of Body Worn Cameras and in-car cameras to accomplish the following objectives:

- To enhance LEO and civilian employee safety.
- To document statements and events during the course of an incident.
- To enhance the LEO's and civilian employee's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
- To preserve visual and audio information for use in current and future investigations.
- To provide a tool for self-critique and field evaluation during LEO and civilian employee training.
- To enhance the public trust by preserving factual

representations of LEO-citizen interactions and DPD civilian employee-civilian interaction, in the form of recorded media. • To assist with the defense of civil actions against LEO's, civilian employees and the City of Duluth. • To assist with the training and evaluation of officers and civilian employees. 432.4 LEO RESPONSIBILITIES Law Enforcement Officer safety shall be the primary consideration for the use and activation of the BWC system. LEOs that are issued a body-worn BWC will wear the BWC as part of their uniform and operate and use them consistent with this policy. LEOs assigned a BWC must wear and operate the BWC in compliance with this policy while performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement official. The BWC shall 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 LEO's activities. LEO's may use only Department-issued BWC's in the performance of official duties for the Duluth Police Department or when otherwise performing authorized law enforcement services as an employee of this Department. Inspection and general maintenance of BWC equipment shall be the responsibility of the LEO to whom the BWC is assigned and performed at the beginning of each shift. If the body worn BWC system is malfunctioning, damaged or stolen, the LEO shall, as soon as reasonably Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 3 possible, notify a supervisor. Further, the LEO shall obtain a functioning BWC as soon as reasonably practicable. Supervisors shall, as soon as reasonably possible, take action to address malfunctions and document the steps taken. 432.5 DOCUMENTING BWC USE LEO's must document BWC use and non-use as follows: • Whenever a LEO makes a recording, the existence of the recording shall be documented in the LEO's report or CAD record/other documentation of the incident. • Whenever a LEO fails to record an incident that should be recorded under this policy or captures only a part of the activity, the LEO must document the circumstances and reasons for not recording in the LEO's report or CAD record/other documentation of the incident. The use of BWC is required while engaged in extra-duty employment. A LEO engaged in extraduty employment is not required to activate the BWC for every contact made. However, such officer shall be expected to activate the BWC if a situation or incident occurs which would otherwise require activation, when safe to do so. The BWC shall not be worn while LEO's are engaged in non-duty employment. The Department will maintain the following records and documents relating to BWC use, which are classified as public data: • The total number of BWC's owned or maintained by an agency. • A daily record of the total number of BWC's actually deployed and used by officers and, if applicable, the precincts in which they were used. • The total amount of recorded BWC data collected and maintained; and • This policy, together with the Records Retention Schedule. 432.5.1 REQUIRED ACTIVATION OF THE BWC This policy is not intended to describe every possible situation in which the BWC system may be used, although there are many situations where its use is appropriate. A LEO or civilian employee may activate the system at any dispatched call, on view, or contact in which its use is appropriate. In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, even when the incident may be outside of the video range, the LEO or civilian employee is encouraged to activate the BWC to capture the audio portion of the incident. Officers and civilian employees need not activate their BWC system 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 this policy. LEO's and civilian employees shall activate the BWC system when anticipating that they will be involved in, or become involved in, or witness other officers of this Department involved in the following circumstances: • Terry stop of a motorist or pedestrian; Duluth Police

Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 4 • Priority responses; • Seizures or arrests; • Consent to search or initial execution of a search warrant; • Physical or verbal confrontations; • Use of force; • Crimes in progress; • When ordered by a supervisor for proper purposes; or • Any situation or incident that the officer, through training and experiences, believes should be audibly and/or visually preserved, unless such recording is otherwise prohibited. • When an employee is the victim, witness, or subject of a criminal investigation. • Involved crowd control and management situations, or wearing crowd control protective gear; LEOs may, in the exercise of sound discretion, determine to use their BWC's to take recorded statements from persons believed to be victims of and witnesses to crimes, and the persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness or suspect. LEOs should use their BWC's or in-squad audio/video systems to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails. LEOs should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the LEO that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording. LEOs have discretion to record or not record general citizen contacts. In addition, LEOs need 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. LEOs and civilian employees have no affirmative duty to inform people that a BWC system is being operated or that the individual is being recorded. For all NON-UNIFORMED LEO's assigned a body camera, its use shall be at the investigator's discretion, with the exception of any planned enforcement. For any planned enforcement investigators should follow the direction given within this policy. Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 5 432.5.2 CESSATION OF RECORDING Once activated, the BWC system should remain on until the incident has concluded unless: • The incident or event is of such duration that the BWC is deactivated to conserve power or storage capacity; • The officer does not reasonably believe that deactivation will result in the loss of critical evidence; • Deactivation is reasonable and necessary to protect the safety of the officer or others; or • Deactivation is approved or ordered by a supervisor or officer having charge of a scene; • Deactivation is necessary to protect the identity of persons or other data entitled to protection under the MGDPA or other law. • For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and witnesses and victims have been interviewed. Recording may be temporarily paused or the audio muted to exchange information with other LEOs, legal counsel, or the lens obstructed to avoid capturing images of undercover officers, informants, or citizens where based on the training, experience and judgment of the officer, a recording would not be appropriate or consistent with this policy. The intention to pause and resume the recording (or to mute audio or obstruct the lens) will be noted by the LEO either verbally on the BWC or in a written report. Recording may cease during non-enforcement activities such as waiting for a tow truck or a family member to arrive, protecting accident scenes or in other non-enforcement situations. 432.5.3 PROHIBITED RECORDING A BWC shall

not be activated with regard to interactions solely among other employees. The BWC shall not be used to record non-work related activity. LEOs and civilian employees shall not use any external device to record media that has been captured by the BWC, nor shall they allow any person to record such media. LEOs will cease recording once they have entered the sally port at the St. Louis County Jail. 432.5.4 WHEN ACTIVATION IS NOT REQUIRED Activation of the MVR system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol. No member of this department may surreptitiously use City equipment to record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief of Police or thier authorized designee for the purpose of conducting a criminal or administrative investigation. Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 6 432.5.5 SUPERVISOR RESPONSIBILITIES Supervisors should assess that: (a) LEOs and civilian employees are using their BWCs in accordance with Department policies and procedures. (b) Logs reflect the proper chain of custody, including: 1. The tracking number of the BWC system media. 2. The date it was issued. 3. The LEO to whom it was issued. 4. The date it was submitted. 5. LEO submitting the media. 6. Holds for evidence indication and tagging as required. (c) It is recommended that the operation of BWC systems by new employees is assessed and reviewed no less than biweekly or until the new employee demonstrates a working knowledge of the BWC system and the applicable policies and procedures. When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, peace officer involved shootings, Department-involved collisions), a supervisor should respond to the scene and ensure recorded media is secured in accordance with Department policy. The media shall be processed and retained in accordance with current policy and procedures. 432.6 DOWNLOADING AND LABELING BWC AND IN-CAR CAMERA DATA Each LEO and civilian employee using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her BWC by placing it into the docking station by the end of that LEO's or civilian employee's shift. However, if the LEO or civilian employee 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 LEO's BWC and assume the responsibility for transferring the data from it. LEOs and civilian employees should label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. LEOs and civilian employees should assign as many of the following labels as are applicable to each file: • Arrest/Investigations - The video involves the physical arrest of an individual and/or the transport of an individual to jail. The video is part of an investigation that the LEO believes is necessary to retain. • Citation - The recording is of an event surrounding the issuance of a citation. • Department - The recording is sensitive in nature or the officer believes it is important to save for future use, such as Internal Investigations and potential complaints against an officer or the Department. This label is also used when the event involved the Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 7 application of force by a LEO or the discharge of a firearm. An officer may use this category in addition to another category. • Interview - The recording is of an interview of a suspect, witness, or victim by an officer. • Use of Force - This label is used by the LEO when the event involved the application of force or the discharge of a firearm that also requires use of force reporting as defined by policy. This label should be used in combination with Arrest/Investigations or Citation if the aforementioned force situation occurred during the apprehension of the individual. •

Pending Review - Manufacturer's label for a video which may have technical issues regarding the recording. • Not Evidence - The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts and unintentionally recorded footage are not evidence. Labeling may be corrected or amended based on additional information.

432.7 ACCESS TO BWC DATA All recorded media, recorded images and audio recordings are the property of the Department and are government data subject to the provisions of the MGDPA. Dissemination outside of the Department is strictly prohibited except to the extent permitted or required under the MGDPA, PODPA or other applicable law.

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

- Any person or entity whose image or voice is documented in the data
- The officer who collected the data
- 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 are 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:

- BWC data pertaining to people, businesses or other entities are presumed to be private or nonpublic data
- Some BWC data are classified as confidential (see C. below)
- Some BWC data are classified as public (see D. below)

C. Confidential data. BWC data that are collected or created as part of an active criminal investigation are governed by Minn. Stat. 13.82 and are classified as confidential or protected nonpublic data. This classification takes precedence over the "private" classification listed above and "public" classifications listed below.

D. Public data. The following BWC data are public: Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 8

- Data that record, describe, or otherwise document actions and circumstances surrounding 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.
- 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.
- Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any 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.
- Data that are public personnel data under Minn. Stat. 13.43 subdivision 2(5).
- 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 reveal protected identities under Minn. Stat. 13.82 (e.g., certain victims, witnesses and others) or other applicable law 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 shall refer members of the media or public seeking access to BWC data to the data practices designee, who shall process the request in accordance with the MGDPA and other governing laws. In particular:

- When an individual dies as a result of use of force by a LEO, the following individuals, upon their request, will be allowed to inspect all BWC data, redacted no more than what is required by law, documenting the incident within five days of the request:
- 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.

Notwithstanding the above, the Duluth Police Department may deny a request to inspect BWC data if it determines that there is a compelling reason that inspection would interfere with an active investigation. If the Duluth Police Department denies access under this paragraph, the Chief of Police will provide a prompt, written denial to the individual above requesting the data, with a short description of the compelling reason access is being denied. The written denial must also provide notice

that relief may be sought from the district court pursuant to section 13.82, subdivision 7. • When an individual dies as a result of a use of force by a LEO, the Duluth Police Department shall release all BWC data, redacted to no more than what is required by law, documenting the incident no later than 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 section 13.92, subdivision 7. • An individual who is the subject of the data has access to the data, including data on other individuals who are the subject of the recording, but access shall not be granted: (a) if the data were 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 Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 9 disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. 13.82 subdivision 17. • Unless the data are part of an active investigation, an individual data subject may request a copy of the recording, 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. 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. Officers may access and view stored BWC video only when there is a business need for doing so, which includes the following: • For use when preparing reports or statements or providing testimony; • To assess proper functioning of BWC systems; • By Department investigators assigned to a related criminal investigation, or after approval of a supervisor, for official investigations; • By a LEO who is captured on or referenced in the video or audio data and reviews and uses the data for any purpose relating to his/her employment; • When reasonable and necessary for the officer to perform the essential functions of his/her job or to defend against allegations of substandard performance or misconduct. To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the Department BWC technician or forensic media staff. When reasonably possible, a copy of the original media should be used for viewing to preserve the original media. LEOs and civilian employees shall not make a copy of any BWC data except in compliance with this policy. The Department shall restrict by password protection access to all BWC data and shall maintain an electronic record of the date, time and name of each employee who accesses the data. In no event shall any BWC data be used or shown for the purpose of ridiculing or embarrassing any employee. G. Other authorized disclosures of data. LEOs may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. 13.82. LEOs 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 audio but not displaying video. In addition: • 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. Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 10 • BWC data shall be made available to prosecutors, courts and other criminal justice entities as provided by law. • With the approval of the Chief of Police, the Department may make any data classified as confidential or protected nonpublic pursuant to Minn. Stat.

13.82 subdivision 7 accessible to any person, agency or the public if the Department determines that the access will aid the law enforcement process, promote public safety or dispel widespread rumor or unrest, consistent with Minn. Stat. 13.82 subdivision 15. 432.8 AGENCY USE OF DATA Supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about LEO 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. The BWC is not intended to be used for the purpose of surveillance of officers or initiating disciplinary action against an officer. LEOs and civilian employees should contact their supervisors to discuss retaining and using BWC data for training purposes. LEO and civilian employee objections to preserving or using certain data for such purposes 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 trainees' performance. 432.8.1 COPIES OF ORIGINAL RECORDING MEDIA Original recording media shall not be used for any purpose other than for initial review by a supervisor. Upon proper request a copy of the original recording media will be made for use as authorized in this policy. Original recording media may only be released in response to a court order or upon approval by the Chief of Police or the authorized designee. In the event an original recording is released to a court a copy shall be made and placed in storage until the original is returned. 432.8.2 MVR RECORDINGS AS EVIDENCE Officers who reasonably believe that an MVR recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer or against the Duluth Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved. 432.9 BWC DATA RETENTION All BWC data shall be retained for a minimum period of 90 days. BWC data must be maintained for at least one year and destroyed according to the Records Retention Schedule if:

- The data document 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;
- The data document the use of force by a peace officer that results in substantial bodily harm; or Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 11
- The data document circumstances giving rise to a formal complaint against the officer BWC data that document a LEO's use of deadly force must be maintained indefinitely. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. Subject to the next item below, all other BWC footage that is classified as nonevidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days. 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. The Department will post this policy, together with a link to its Record Retention Schedule, on its website.

432.10 PROPERTY AND EVIDENCE TECHNICIAN RESPONSIBILITIES The Property and Evidence Technician is responsible for:

- (a) Retrieving, storing, erasing and duplicating of all recorded media.
- (b) Collecting all completed media for oversight. Once collected the Property and Evidence Technician:
 1. Ensures it is stored in a secured location with authorized controlled access.
 2. Makes appropriate entries in the chain of custody log.
- (c) Erasing of media:
 1. Pursuant to a court order.
 2. In accordance with established records retention policies.
- (d) Ensuring that an adequate supply of recording media is available.
- (e) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the Records Retention Schedule.

432.11 SYSTEM OPERATIONS STANDARDS BWC

system use should be based on LEO safety requirements and device manufacturer recommendations. The BWC system should be configured to record no more than 30 seconds prior to an activation. The BWC system should not be configured to record audio data occurring prior to activation. Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/06/20, All Rights Reserved. Published with permission by Duluth Police Department Body Worn Cameras - 12 LEOs using digital transmitters that are individually synchronized to their individual BWC should activate both audio and video recording when responding in a support capacity in order to obtain additional perspectives of the incident scene. With the exception of law enforcement radios or other emergency equipment, other electronic devices should not be used within the law enforcement vehicle in order to intentionally interfere with the capability of the BWC system. LEOs and civilian employees shall not intentionally erase, alter, modify or tamper with BWC data or metadata. Only a supervisor, BWC administrator, BWC technician, or other approved designee, may erase media in accordance with this policy. As required by Minn. Stat. 13.82 subdivision 9, as may be amended from time to time, this Department shall obtain an independent biennial audit of its BWC program. 432.12 TRAINING Users of the BWC system and supervisors shall successfully complete an approved course of instruction prior to being deployed with BWC systems in operational settings. 432.13 USE OF PERSONAL DIGITAL RECORDING DEVICES LEOs and civilian employees are prohibited from using personal video recording equipment in lieu of their Department-issued BWCs while on-duty However, the Department recognizes that, in rare or unforeseen situations, it may be necessary for LEOs to use their personal video recording equipment to record or collect evidence. In such an event, the LEO must upload that media into SHIELD or save to a DVD and place into evidence in accordance with Department policy and procedure. 432.14 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

APPENDIX B:

Policy 418 Duluth Police Department Duluth PD Policy Manual Copyright Lexipol, LLC 2024/09/20, All Rights Reserved. Published with permission by Duluth Police Department ***DRAFT*** Body Worn Cameras - 1 Body Worn Cameras 418.1 PURPOSE AND SCOPE The Duluth Police Department has equipped law enforcement operators and civilian personnel with Body Worn Camera (BWC) systems. The purpose of this policy is to provide guidelines for the use, management, access, storage, retrieval and retention of audio-visual media recorded by BWC systems as prescribed 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 (dash cam) recording systems. The chief or their designee may supersede this policy by providing specific instructions for BWC 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. The chief or designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities. 418.1.1 DEFINITIONS Definitions related to this policy include: Activate - Any process that causes the BWC system to transmit or store audio-visual signals. Body Worn Camera (BWC) - A device worn by an officer that is capable of both video and audio recordings of the officer's activities and interactions with others or collecting digital multimedia evidence as part of an investigation as provided in Minn. Stat. 13.825. Primarily a licensed peace officer, but on occasion, may be a non-licensed representative of the Duluth Police Department who is authorized and assigned to operate BWC equipment. MGDPA - The Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. PODPA – The Peace Officer Discipline Procedures Act, Minnesota Statutes Section 626.89. Property and Evidence Technician - Personnel certified or trained in receiving and storing evidence and property, maintaining property inventory reports with proper "chain of custody" notations and any and all actions associated with the property or evidence. BWC Administrator – Typically a Sergeant or a designee, who assigns, tracks, and maintains BWC equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor. BWC Technician - Personnel certified or trained in the operational use and repair of BWCs, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures. Recorded media – Audio-visual signals that are recorded or stored. Records Retention Schedule - Refers to the General Records Retention Schedule for Minnesota Cities. Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/09/20, All Rights Reserved. Published with permission by Duluth Police Department ***DRAFT*** Body Worn Cameras - 2 418.2 POLICY It is the goal of the Duluth Police Department to use mobile video recording (BWC) technology to more effectively fulfill the department's mission and to ensure these systems are used securely, efficiently, and in compliance with the law. 418.3 BWC OPERATIONAL OBJECTIVES The Duluth Police Department has adopted the use of Body Worn Cameras and in-car cameras to accomplish the following objectives; A. To enhance officer and civilian employee safety. B. To document statements and events during the course of an incident. C. To enhance the officer's and civilian employee's ability to document and review statements and actions for both

internal reporting requirements and for courtroom preparation/presentation. D. To preserve visual and audio information for use in current and future investigations. E. To provide a tool for self-critique and field evaluation during officer and civilian employee training. F. To enhance the public trust by preserving factual representations of officer-citizen interactions and DPD civilian employee-civilian interaction, in the form of recorded media. G. To assist with the defense of civil actions against officers, civilian employees, and the City of Duluth. H. To assist with the training and evaluation of officers and civilian employees.

418.4 OFFICER RESPONSIBILITIES Law Enforcement Officer safety shall be the primary consideration for the use and activation of the BWC system. Officers who are issued a body-worn BWC will wear the BWC as part of their uniform and operate and use them consistent with this policy. Officers assigned a BWC must wear and operate the BWC in compliance with this policy while performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement official. The BWC shall 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. Officer's may use only Department-issued BWC's in the performance of official duties for the Duluth Police Department or when otherwise performing authorized law enforcement services as an employee of this Department. Inspection and general maintenance of BWC equipment shall be the responsibility of the officer to whom the BWC is assigned and performed at the beginning of each shift. If the body worn BWC system is malfunctioning, damaged or stolen, the officer shall, as soon as reasonably possible, notify a supervisor. Further, the officer shall obtain a functioning BWC as soon as reasonably practicable. Supervisors shall, as soon as reasonably possible, take action to address malfunctions and document the steps taken. Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/09/20, All Rights Reserved. Published with permission by Duluth Police Department ***DRAFT*** Body Worn Cameras - 3

418.5 DOCUMENTING BWC USE Officers must document BWC use and non-use as follows:

- A. Whenever an officer makes a recording, the existence of the recording shall be documented in the officer's report or CAD record/other documentation of the incident.
- B. Whenever an officer fails to record an incident that should 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 the officer's report or CAD record/other documentation of the incident.

The use of BWC is required while engaged in extra-duty employment. An officer engaged in extraduty employment is not required to activate the BWC for every contact made. However, such officer shall be expected to activate the BWC if a situation or incident occurs which would otherwise require activation, when safe to do so. The BWC shall not be worn while officers are engaged in non-duty employment. The Department will maintain the following records and documents relating to BWC use, which are classified as public data:

- A. The total number of BWC's owned or maintained by an agency.
- B. A daily record of the total number of BWC's actually deployed and used by officers and, if applicable, the precincts in which they were used.
- C. The total amount of recorded BWC data collected and maintained; and
- D. This policy, together with the Records Retention Schedule.

418.5.1 REQUIRED ACTIVATION OF THE BWC This policy is not intended to describe every possible situation in which the BWC system may be used, although there are many situations where its use is appropriate. An officer or civilian employee may activate the recorder during any dispatched call, on view, or contact in which its use is appropriate. In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, even when the incident may be outside of the video range, the officer or civilian employee is encouraged to activate the BWC to capture the audio portion of the incident. Officers and civilian employees need not activate their BWC system 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 this policy. Officers and civilian employees shall activate the BWC system when anticipating that they will be involved in, or become involved in, or witness other officers of this Department involved in the following circumstances: A. Terry stop of a motorist or pedestrian B. Priority responses C. Seizures or arrests Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/09/20, All Rights Reserved. Published with permission by Duluth Police Department ***DRAFT*** Body Worn Cameras - 4 D. Consent to search or initial execution of a search warrant E. Physical or verbal confrontations F. Use of force G. Crimes in progress H. When ordered by a supervisor for proper purposes I. Any situation or incident that the officer, through training and experiences, believes should be audibly and/or visually preserved, unless such recording is otherwise prohibited J. When an employee is the victim, witness, or subject of a criminal investigation K. Involved crowd control and management situations, or wearing crowd control protective gear Officers may, in the exercise of sound discretion, determine to use their BWC's to take recorded statements from persons believed to be victims of and witnesses to crimes, and the persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness or suspect. Officers should use their BWC's or in-squad audio/video systems to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, except that in accordance with this policy, officers shall cease recording upon entry into the St Louis County Jail sallyport. Officers should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the officer that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording. Officers have discretion to record or not record general citizen contacts. 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. 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. Officers and civilian employees have no affirmative duty to inform people that a BWC system is being operated or that the individual is being recorded. For all non-uniformed officers assigned a body camera, its use shall be at the officer's discretion, with the exception of any planned enforcement. For any planned enforcement, non-uniformed officers should follow the direction given within this policy. 418.5.2 CESSATION OF RECORDING Once activated, the BWC system should remain on until the incident has concluded unless: Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/09/20, All Rights Reserved. Published with permission by Duluth Police Department ***DRAFT*** Body Worn Cameras - 5 A. The incident or event is of such duration that the BWC is deactivated to conserve power or storage capacity. B. The officer does not reasonably believe that deactivation will result in the loss of critical evidence. C. Deactivation is reasonable and necessary to protect the safety of the officer or others. D. Deactivation is approved or ordered by a supervisor or officer having charge of a scene. E. Deactivation is necessary to protect the identity of persons or other data entitled to protection under the MGDPA or other law. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and witnesses and victims have been interviewed. Recording may be temporarily paused or the audio muted to exchange information with other officers, legal counsel, or the lens

obstructed to avoid capturing images of undercover officers, informants, or citizens where based on the training, experience, and judgment of the officer, a recording would not be appropriate or consistent with this policy. The intention to pause and resume the recording (or to mute audio or obstruct the lens) will be noted by the officer either verbally on the BWC or in a written report. Recording may cease during non-enforcement activities such as waiting for a tow truck or a family member to arrive, protecting accident scenes or in other non-enforcement situations.

418.5.3 PROHIBITED RECORDING A BWC shall not be activated with regard to interactions solely among other employees. The BWC shall not be used to record non-work related activity. Officers and civilian employees shall not use any external device to record media that has been captured by the BWC, nor shall they allow any person to record such media. Officers will cease recording once they have entered the sallyport at the St. Louis County Jail.

418.5.4 WHEN ACTIVATION IS NOT REQUIRED Activation of the BWC is not required when exchanging information with other officers or during breaks, lunch periods, when not in service, or actively on patrol. No member of this department may surreptitiously use City equipment to record a conversation of any other member of this department, except with a court order, or when lawfully authorized by the Chief of Police or their authorized designee for the purpose of conducting a criminal or administrative investigation.

418.5.5 SUPERVISOR RESPONSIBILITIES Supervisors should assess that:

- A. Officers and civilian employees are using their BWCs in accordance with Department policies and procedures.
- B. Logs reflect the proper chain of custody, including: Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/09/20, All Rights Reserved. Published with permission by Duluth Police Department ***DRAFT*** Body Worn Cameras - 6

1. The tracking number of the BWC system media. 2. The date it was issued. 3. The officer to whom it was issued. 4. The date it was submitted. 5. The officer submitting the media. 6. Holds for evidence indication and tagging as required.

- C. It is recommended that the operation of BWC systems by new employees is assessed and reviewed no less than biweekly or until the new employee demonstrates a working knowledge of the BWC system and the applicable policies and procedures.
- D. As required by Minn. Stat. §626.8473 Subd 3 (b) (12), The Lieutenant of the Professional Standards Unit, and/or their designee, shall conduct a randomized annual audit of BWC data and footage. When an incident arises that requires the immediate retrieval of the recorded media (e.g. - serious crime scenes, peace officer involved shootings, Department-involved collisions), a supervisor should respond to the scene and ensure recorded media is secured in accordance with Department policy. The media shall be processed and retained in accordance with current policy and procedures.

418.6 DOWNLOADING AND LABELING BWC AND IN-CAR CAMERA DATA Each officer and civilian employee using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her BWC by placing it into the docking station by the end of that officer or civilian employee's shift. However, if the officer or civilian employee is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume the responsibility for transferring the data from it. Officers and civilian employees should label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. Officers and civilian employees should assign as many of the following labels as are applicable to each file:

- A. Arrest/Investigations - The video involves the physical arrest of an individual and/or the transport of an individual to jail. The video is part of an investigation that the officer believes is necessary to retain.
- B. Citation - The recording is of an event surrounding the issuance of a citation.
- C. Department - The recording is sensitive in nature or the officer believes it is important to save for future use, such as Internal Investigations and potential complaints against an officer or the Department. This

label is also used when the event involved the application of force by an officer or the discharge of a firearm. An officer may use this category in addition to another category. D. Interview - The recording is of an interview of a suspect, witness, or victim by an officer. Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/09/20, All Rights Reserved. Published with permission by Duluth Police Department ***DRAFT*** Body Worn Cameras - 7 E. Use of Force - This label is used by the officer when the event involved the application of force or the discharge of a firearm that also requires use of force reporting as defined by policy. This label should be used in combination with Arrest/Investigations or Citation if the aforementioned force situation occurred during the apprehension of the individual. F. Pending Review - Manufacturer's label for a video which may have technical issues regarding the recording. G. Not Evidence - The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts and unintentionally recorded footage are not evidence. Labeling may be corrected or amended based on additional information. 418.7 ACCESS TO BWC DATA All recorded media, recorded images, and audio recordings are the property of the Department and are government data subject to the provisions of the MGDPA. Dissemination outside of the Department is strictly prohibited except to the extent permitted or required under the MGDPA, PODPA or other applicable law. 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. 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 are 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, businesses, or other entities are presumed to be private or nonpublic data. 2. Some BWC data are classified as confidential (see C. below). 3. Some BWC data are classified as public (see D. below). C. Confidential data. BWC data that are collected or created as part of an active criminal investigation are governed by Minn. Stat. §13.82 and are classified as confidential or protected nonpublic data. This classification takes precedence over the "private" classification listed above and "public" classifications listed below. D. Public data. The following BWC data are public: 1. Data that record, describe, or otherwise document actions and circumstances surrounding 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. Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/09/20, All Rights Reserved. Published with permission by Duluth Police Department ***DRAFT*** Body Worn Cameras - 8 2. 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. 3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any 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 are public personnel data under Minn. Stat. §13.43 subdivision 2(5). 5. 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 reveal protected identities under Minn. Stat. §13.82 (e.g., certain victims, witnesses, and others) or other applicable law 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 shall refer members of the media or public seeking access to BWC data to the data practices designee, who shall process the request in accordance with the MGDPA and other governing laws. In particular: 1. When an individual dies as a result of use of force by an officer, the following

individuals, upon their request, will be allowed to inspect all BWC data, redacted no more than what is required by law, documenting the incident within five days of the 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. 2. Notwithstanding the above, the Duluth Police Department may deny a request to inspect BWC data if it determines that there is a compelling reason that inspection would interfere with an active investigation. If the Duluth Police Department denies access under this paragraph, the Chief of Police will provide a prompt, written denial to the individual above requesting the data, with a short description of the compelling reason access is being denied. The written denial must also provide notice that relief may be sought from the district court pursuant to Minn Stat. section §13.82, subdivision 7. 3. When an individual dies as a result of a use of force by an officer, the Duluth Police Department shall release all BWC data, redacted to no more than what is required by law, documenting the incident no later than 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 Minn Stat. §section 13.92, subdivision 7. 4. An individual who is the subject of the data has access to the data, including data on other individuals who are the subject of the recording, but access shall not be granted: Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/09/20, All Rights Reserved. Published with permission by Duluth Police Department ***DRAFT*** Body Worn Cameras - 9 (a) If the data were 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 subdivision 17. 5. Unless the data are part of an active investigation, an individual data subject may request a copy of the recording, subject to the following guidelines on redaction: (a) Data on other individuals in the recording who do not consent to the release much be redacted. (b) Data that would identify undercover officers must by 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. 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. Officers may access and view stored BWC video only when there is a business need for doing so, which includes the following: 1. For use when preparing reports or statements or providing testimony. 2. To assess proper functioning of BWC systems. 3. By Department investigators assigned to a related criminal investigation, or after approval of a supervisor for official investigations. 4. By an officer who is captured on or referenced in the video or audio data, and reviews and uses the data for any purpose relating to his/her employment 5. When reasonable and necessary for the officer to perform the essential functions of their job, or to defend against allegations of substandard performance or misconduct. 6. To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed, or otherwise inserted into any device not approved by the Department BWC technician or forensic media staff. When reasonably possible, a copy of the original media should be used for viewing to preserve the original media. Officers and civilian employees shall not make a copy of any BWC data except in compliance with this policy. The Department shall restrict by password protection access to all BWC data and shall maintain an electronic record of the date, time, and name of each employee who accesses the data. In no event shall any BWC data be used or shown for the purpose of ridiculing or embarrassing any employee. 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. 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 audio but not displaying video. In addition: Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/09/20, All Rights Reserved. Published with permission by Duluth Police Department ***DRAFT*** Body Worn Cameras - 10

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.

3. With the approval of the Chief of Police, the Department may make any data classified as confidential or protected nonpublic pursuant to Minn. Stat. 13.82 subdivision 7 accessible to any person, agency or the public if the Department determines that the access will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest, consistent with Minn. Stat. 13.82 subdivision 15.

418.8 AGENCY USE OF DATA Only authorized personnel may access BWC data. For the purposes of this policy, authorized personnel consists of the following:

A. Supervisors of officers depicted in the video

B. Professional Standards Unit personnel charged with department internal investigations, use of force reviews, and training

C. Other Command Staff members designated by the Chief

BWC data may only be accessed for the following purposes:

A. Review or investigation of a specific incident that has given rise to a complaint or concern about officer misconduct or performance

B. For a use of force review by a supervisor

C. To address training issues for the benefit of the officer or department

D. During an annual audit as described in this policy

Review of BWC data by an Investigator as part of a routine case review is considered an authorized access. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline. The BWC is not intended to be used for the purpose of surveillance of officers or initiating disciplinary action against an officer. Officers and civilian employees should contact their supervisors to discuss retaining and using BWC data for training purposes. Officers and civilian employee objections to preserving or using certain data for such purposes 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 trainees' performance. Duluth Police Department Duluth PD Policy Manual Body Worn Cameras Copyright Lexipol, LLC 2024/09/20, All Rights Reserved. Published with permission by Duluth Police Department ***DRAFT*** Body Worn Cameras - 11

418.8.1 COPIES OF ORIGINAL RECORDING MEDIA Original recording media shall not be used for any purpose other than for initial review by a supervisor. Upon proper request a copy of the original recording media will be made for use as authorized in this policy. Original recording media may only be released in response to a court order or upon approval by the Chief of Police or the authorized designee. In the event an original recording is released to a court a copy shall be made and placed in storage until the original is returned.

418.8.2 MVR RECORDINGS AS EVIDENCE Officers who reasonably believe that an MVR BWC recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer, or against the Duluth Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

418.9 BWC DATA RETENTION All BWC data shall be retained for a minimum period of 90 days. BWC data must be maintained for at least one year and destroyed according to the Records Retention Schedule if:

A. The data document 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.

B. The data document the use of force by a peace officer that results in substantial bodily harm.

C. The data document circumstances giving rise to a formal complaint against the officer.

BWC data that document an officer's use of deadly force must be maintained indefinitely. Other data having evidentiary value

shall be retained for the period specified in the Records Retention Schedule. Subject to the next item 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. 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. The Department will post this policy, together with a link to its Record Retention Schedule, on its website.

418.10 PROPERTY AND EVIDENCE TECHNICIAN RESPONSIBILITIES The Property and Evidence Technician is responsible for:

- A. Retrieving, storing, erasing, and duplicating of all recorded media.

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B. Collecting all completed media for oversight. Once collected the Property and Evidence Technician:

- 1. Ensures it is stored in a secured location with authorized controlled access.
- 2. Makes appropriate entries in the chain of custody log.

C. Erasing of media:

- 1. Pursuant to a court order.
- 2. In accordance with established records retention policies.

D. Ensuring that an adequate supply of recording media is available.

E. Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the Records Retention Schedule.

418.11 SYSTEM OPERATIONS STANDARDS BWC system use should be based on officer safety requirements and device manufacturer recommendations. The BWC system should be configured to record no more than 30 seconds prior to an activation. The BWC system should not be configured to record audio data occurring prior to activation. Officers using digital transmitters that are individually synchronized to their individual BWC should activate both audio and video recording when responding in a support capacity in order to obtain additional perspectives of the incident scene. With the exception of law enforcement radios or other emergency equipment, other electronic devices should not be used within the law enforcement vehicle in order to intentionally interfere with the capability of the BWC system. Officers and civilian employees shall not intentionally erase, alter, modify, or tamper with BWC data or metadata. Only a supervisor, BWC administrator, BWC technician, or other approved designee, may erase media in accordance with this policy. As required by Minn. Stat. §13.82 subdivision 9, as may be amended from time to time, this Department shall obtain an independent biennial audit of its BWC program.

418.12 TRAINING Users of the BWC system and supervisors shall successfully complete an approved course of instruction prior to being deployed with BWC systems in operational settings.

418.13 USE OF PERSONAL DIGITAL RECORDING DEVICES Officers who are assigned a BWC as part of their assignment, are prohibited from using personal portable recording system as defined by Minn. Stat. §13.825, in lieu of their department-issued BWC's while on duty.

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418.14 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