



INDEPENDENT AUDITOR'S REPORT

Frazee Police Department



DECEMBER 23RD, 2024
RAMPART AUDIT LLC

Audit Overview and Recommendations

Dear Frazee City Council and Chief Trieglaff:

We have audited the body-worn camera (BWC) program of the Frazee Police Department (FPD) for the two-year period ended 03/06/2024. 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 FPD. Our responsibility is to express an opinion on the operations of this program based on our audit.

On October 7, 2024, Rampart Audit LLC (Rampart) met with Chief Tyler Trieglaff, who provided information about FPD's BWC program policies, procedures and operations. As part of the audit, Rampart reviewed those policies, procedures and operations for compliance with Minnesota Statute §626.8473, which sets forth the requirements for creating and implementing a BWC program, and Minnesota Statute §13.825, which governs the operation of BWC programs. In addition, Rampart also conducted a sampling of BWC data to verify FPD's recordkeeping.

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

FPD BWC Program Implementation and Authorization

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

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

Rampart previously audited Frazee Police Department in 2022. As part of that audit, Trieglaff had provided documentation showing that the public notification, comment and meeting requirements had been satisfied prior to the implementation of FPD's BWC program on March 7, 2019. Specifically, Chief Trieglaff furnished a copy of the minutes of the January 14, 2019, Frazee City Council meeting. The minutes noted that the meeting was opened for a public hearing to present and discuss the proposed BWC program. There were no questions or comments regarding the proposal. After the public hearing was closed, the city council voted to authorize the purchase of a body-worn camera system for FPD. The notes indicated council members had questions about the BWC policy itself and postponed consideration until the following month's meeting. Chief Trieglaff also provided a copy of the February 11, 2019, Frazee City Council Meeting Minutes, which indicated that the city council approved the BWC policy with minor adjustments. Copies of these documents have been retained in Rampart's audit files. The Rampart auditor verified that there was a

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

working link to the BWC policy on the FPD website prior to the audit. However, at the time of the audit the link was no longer functioning. Chief Trieglaff will put in a request to fix the link as he does not have direct control over the website.

With the exception of the policy link malfunction that appears to be a technical deficiency, in our opinion, FPD is substantially compliant with the requirements of §626.8473 Subd. 3(a).

FPD BWC WRITTEN POLICY

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

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

- 1) The requirements of section 13.825 and other data classifications, access procedures, retention policies, and data safeguards that, at a minimum, meet the requirements of chapter 13 and other applicable law;
- 2) 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 FPD 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.

FPD 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(d) 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 FPD's BWC policy states that: "[a]ll BWC data shall be retained for a minimum period of 90 days," while the FPD's policy also states, "Evidentiary data shall be retained for the period specified in the General Records Retention Schedule for Minnesota Cities (GRRSMC)," it does not have any of the 2023 legislative updates. While the GRRSMC includes the retention periods specified in Minn. Stat. §13.825 Subd. 3(a), (b) and (d), it does not include the Subd. 3(c) requirement that BWC data documenting a peace officer's use of deadly force be maintained "indefinitely."

We recommend adding the exact or substantially similar retention periods required by statute.

FPD's BWC policy does not contain the §13.825 Subd. 3(d) requirement pertaining to additional retention when so requested by a data subject, though this is included in the GRRSMC.

The General Guidelines for Recording section of FPD's BWC policy states that: "[o]fficers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee." We recommend amending this section to clarify that under no circumstances may

any BWC data or metadata be altered, erased, or deleted prior to the expiration of the required retention period.

FPD employs Axon 4 body-worn cameras and utilizes Axon cloud to store its data. FPD uses and utilizes Axon's Evidence.com cloud-based storage service. FPD uses the Axon Evidence video management software to manage BWC data retention through automated retention settings. The retention period for each video is determined by the data classification assigned at the time of upload; however, this retention period can be manually adjusted by Chief Trieglaff as needed. If an officer fails to assign a data classification, the default retention period is indefinite.

FPD's BWC policy states that:

Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera by docking the unit at the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume responsibility for transferring the data from it.

The policy further states that "[o]fficers shall label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling..."

Chief Trieglaff advised that the Axon body-worn cameras utilize a physical docking station located at the FPD.

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

1. Use of deadly force BWC data maintained indefinitely
2. Certain categories retained for one year
3. Upon Written request of data subject BWC data shall be kept 180 days
4. Language about data or metadata being altered or erased prior to retention period

Prior to the issuance of this report, FPD provided a revised draft version of their BWC policy to address the four items noted above. This amended policy has been attached in this report as Appendix B.

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

FPD BWC Data Destruction

As discussed above, FPD utilizes Axon's Evidence.com for storage, with retention periods determined based on the classification assigned to BWC data. Axon certifies that its Cloud Service is compliant with the Federal Bureau of Investigation's Criminal Justice Information System Security Division Policy as required by

Minnesota Statute §13.825 Subd. 11(b). Data destruction is achieved through automated deletion and overwriting, with storage devices sanitized (overwritten three or more times or degaussed) or physically destroyed upon being removed from service.

Chief Trieglaff advised us that videos are deleted automatically by the Evidence.com software upon expiration of the assigned retention period.

FBI CJIS policy requires that hard drives used for CJIS data storage be 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, FPD's written BWC policy is compliant with respect to the applicable data destruction requirements.

FPD BWC Data Access

The Access to BWC Data section of FPD's BWC policy states that, "[o]fficers shall refer members of the media or public seeking access to BWC data to the Frazee Police Department Records Division, who will process the request in accordance with the MGDPA and other governing laws. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public."

Chief Trieglaff advised us that that all requests for BWC data from the public or media are made in writing on a city form which is directed to himself for approval. BWC video is provided to members of the public on a USB drive or an emailed link.

As discussed in Clauses 5 and 6 of the Policy section of this report, the Minnesota State Legislature in 2023 added specific access requirements related to BWC data that document deadly force incidents, and specified that these requirements must be included in the agency's BWC policy. As of the date of the audit, FPD had not incorporated these requirements into its written policy.

Prior to the issuance of this report, FPD submitted a revised BWC policy that addresses these requirements. A copy of this revised policy is attached in Appendix B within this report.

Requests for BWC data from other law enforcement agencies are submitted indirectly to Chief Trieglaff through the County Attorney in an email. This request is completed by Chief Trieglaff sending an email link. If Chief Trieglaff is submitting charges to the County Attorney it is typically done by USB or optical drive such as a DVD.

FPD's BWC policy states that "BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law."

Chief Trieglaff indicated that FPD has verbal acknowledgments of any receiving agency's obligations under §13.825 Subd. 7 and Subd. 8,

Rampart recommends obtaining written acknowledgements of these obligations.

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

FPD BWC Data Classification

FPD's BWC policy has no definition for data subjects or data classification. We recommend a series of policy updates with articulation on the different classifications of when data is private, confidential, public etc.

Prior to the issuance of this report FPD provided a revised policy outlining three separate categories for data classification which include: private, confidential and public.

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

FPD BWC Internal Compliance Verification

The FPD BWC Agency Use of Data section states that "[s]upervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance." The same section also states,

"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."

Chief Trieglaff advised that he conducts quarterly reviews or "spot checks" on each officer quarterly, and that system logs the time/date/user ID stamp of the review.

The Access to BWC Data section of the BWC policy states that:

"[o]fficers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Officers may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident," and further states that: "[a]gency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency onto public and social media websites."

The software does not require users to provide a reason for accessing a video but records a time, date and user ID stamp in the internal audit log.

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.

As of the date of the audit, FPD had not incorporated these requirements into its written policy.

Prior to the issuance of this report, FPD submitted a revised BWC policy that addresses this requirement.

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

In our opinion, FPD's revised policy is compliant with respect to the compliance and disciplinary requirements contained in §626.8473 Subd. 3(b)(8) and is attached as Appendix B within this report.

FPD BWC Program and Inventory

FPD currently possesses six (6) Axon Body 4 body-worn cameras, three (3) are in regular use with the other three (3) serving as backups in the squad cars.

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

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 Use and Documentation section of FPD's BWC policy states that "[o]fficers should wear their issued BWCs at the location on their body and in the manner specified in training," but does not otherwise address this requirement.

Prior to the issuance of this report, FPD submitted a revised BWC policy that addresses this requirement.

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

As of October 7, 2024, FPD maintained 5,145 BWC video files.

FPD BWC Physical, Technological and Procedural Safeguards

FPD 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.

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. An example of this was shown to Rampart during the audit.

Enhanced Surveillance Technology

FPD currently employs BWCs with only standard audio/video recording capabilities. FPD 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 FPD should obtain such enhanced technology in the future, Minnesota Statute §13.825 Subd. 10 requires notice to the Minnesota Bureau of Criminal Apprehension within 10 days. This notice must include a description of the technology and its surveillance capability and intended uses.

Data Sampling

Rampart selected a random sample of 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 FPD records.

Audit Conclusions

In our opinion, the FPD’s Body-Worn Camera Program is substantially compliant with Minnesota Statutes §13.825 and §626.8473.

A handwritten signature in black ink, appearing to read "Rampart", is written over a horizontal line.

Rampart Audit LLC

12/23/2024

APPENDIX A:



City of Frazee, Minnesota Police Department Use of Body-Worn Cameras Policy

I. Purpose

The use of body-worn cameras (BWCs) in law enforcement is relatively new. The primary purpose of using BWCs is to capture evidence arising from police-citizen encounters. While this technology allows for the collection of valuable information, it opens up many questions about how to balance public demands for accountability and transparency with the privacy concerns of those being recorded. In deciding what to record, this policy also reflects a balance between the desire to establish exacting and detailed requirements and the reality that officers must attend to their primary duties and the safety of all concerned, often in circumstances that are tense, uncertain, and rapidly evolving.

II. Policy

It is the policy of this department to authorize and require the use of department-issued BWCs as set forth below.

III. Scope

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of surreptitious recording devices in undercover operations or the use of squadbased (dash-cam) video recorders. The chief or chief's designee may supersede this policy by providing specific instructions for the use of BWCs to individual officers or, providing specific instructions for the use of BWCs pertaining to certain events or classes of events, including but not limited to political rallies and demonstrations. The chief or chief's designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

IV. Definitions

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

- A. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat.

§ 13.01, et seq.

- B. Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.
- C. Law enforcement-related information** means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- D. Evidentiary** value means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.
- E. General** citizen contact means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.
- F. Adversarial** encounter means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.
- G. Unintentional Recording** is a video recording that results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary or administrative value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.
- H. Traffic/Pedestrian Stop**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency, and has undertaken a stop of this nature.

V. Use and Documentation

- A. Officers may use only department-issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.
- B. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall check their issued BWCs at the beginning of each shift to make sure the devices are functioning properly and shall promptly report any malfunctions to the officer's supervisor.
- C. Officers should wear their issued BWCs at the location on their body and in the manner specified in training.

D. Officers must document BWC use and nonuse as follows:

Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report or CAD. Supervisors shall review these reports and initiate any corrective action deemed necessary.

VI. General Guidelines for Recording

- A. Officers shall activate their BWCs when anticipating that they will be involved in, or witness other officers of this agency involved in a pursuit, *Terry* stop of a motorist or pedestrian, search, seizure, arrest, use of force, adversarial contact, and during other activities likely to yield information having evidentiary value. However, officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines.
- B. Officers have discretion to record or not record general citizen contacts.
- C. Officers have no affirmative duty to inform people that a BWC is being operated or that they are being recorded.
- D. Once activated, the BWC should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The officer having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. Officers shall state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
- E. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy. Officers may when deemed necessary, mute the audio for the purposes of sensitive conversations with other officers.
- F. Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.
- G. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.

VII. Special Guidelines for Recording

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

- A. To use their BWC to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- B. To use their BWC to take recorded statements from persons believed to be victims and witnesses of crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

In addition,

- C. Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. Officers may activate their BWCs when dealing with individuals believed to be experiencing a mental health crisis or event. BWCs shall be activated as necessary to document any use of force and the basis therefor and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental health issue.
- D. Officers should use their BWCs and or squad-based audio/video systems to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident.

VIII. Downloading and Labeling Data

- A. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to by docking the unit at the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume responsibility for transferring the data from it.
- B. Officers shall label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling.
 - 1. Evidentiary:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision above the level of Petty Misdemeanor. The recording has potential evidentiary value for reasons identified by the officer at the time of labeling. Whether or not enforcement action was taken or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property.
 - 2. Use of Force/Pursuit:** Whether or not enforcement action was taken or an arrest resulted, the event involved the application of force by a law enforcement officer of this or another agency.

3. **Adversarial:** The incident involved an adversarial encounter.
 4. **Training Value:** The event was such that it may have value for training.
 5. **Unintentional Recording:** Footage captured through unintentional activation will be deleted after a 90-day retention.
 6. **General:** The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts are not evidence.
 7. **Traffic/Petty Citation:** The recording documents the issuance of a Petty Misdemeanor violation.
 8. **Traffic/Pedestrian Stop:** The recording documents the undertaking of a pedestrian or traffic stop no resulting in charges.
- C. Labeling and flagging designations may be corrected or amended based on additional information.

IIIX. Access to BWC Data

- A. All safeguards in place by Evidence.com will meet or exceed required security parameters. In addition:
- B. Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy.
- C. Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Officers may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident.
- D. Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, subd. 15, as may be amended from time to time. Officers should limit these displays to protect against the incidental disclosure of individuals whose identities are not public.
- E. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency onto public and social media websites.
- F. Officers shall refer members of the media or public seeking access to BWC data to the Frazee Police Department Records Division, who will process the request in accordance with the MGDPA and other governing laws. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.
- G. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

- H. Prior to release of data, the Records Division shall determine if a file is appropriate for release if it contains subjects who may have rights under the MGDPA limiting public disclosure of information about them. These individuals include:
1. Victims and alleged victims of criminal sexual conduct.
 2. Victims of child abuse or neglect.
 3. Vulnerable adults who are victims of maltreatment.
 4. Undercover officers.
 5. Informants.
 6. When the video is clearly offensive to common sensitivities.
 7. Victims of and witnesses to crimes, if the victim or witness has requested not to be identified publicly.
 8. Individuals who called 911, and services subscribers whose lines were used to place a call to the 911 system.
 9. Mandated reporters.
 10. Juvenile witnesses, if the nature of the event or activity justifies protecting the identity of the witness.
 11. Juveniles who are or may be delinquent or engaged in criminal acts.
 12. Individuals who make complaints about violations with respect to the use of real property.
 13. Officers and employees who are the subject of a complaint related to the events captured on video.
 14. Other individuals whose identities the officer believes may be legally protected from public disclosure.

IX. Agency Use of Data

- A. Supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.
- B. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- C. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainee's performance.
- D. Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. 13.09.

X. Data Retention

- A.** Evidentiary data shall be retained for the period specified in the General Records Retention Schedule for Minnesota Cities. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable retention period.

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

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

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

- E.** Violations of this policy could result in disciplinary action in accordance to the City of Frazee handbook.

Adopted – January 14, 2019

APPENDIX B:



City of Frazee, Minnesota Police Department Use of Body-Worn Cameras Policy

I. Purpose

The use of body-worn cameras (BWCs) in law enforcement is relatively new. The primary purpose of using BWCs is to capture evidence arising from police-citizen encounters. While this technology allows for the collection of valuable information, it opens up many questions about how to balance public demands for accountability and transparency with the privacy concerns of those being recorded. In deciding what to record, this policy also reflects a balance between the desire to establish exacting and detailed requirements and the reality that officers must attend to their primary duties and the safety of all concerned, often in circumstances that are tense, uncertain, and rapidly evolving.

II. Policy

It is the policy of this department to authorize and require the use of department-issued BWCs as set forth below.

III. Scope

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of surreptitious recording devices in undercover operations or the use of squadbased (dash-cam) video recorders. The chief or chief's designee may supersede this policy by providing specific instructions for the use of BWCs to individual officers or, providing specific instructions for the use of BWCs pertaining to certain events or classes of events, including but not limited to political rallies and demonstrations. The chief or chief's designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

IV. Definitions

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

- A. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- B. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.
- C. **Law enforcement-related information** means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- D. **Evidentiary** value means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.
- E. **General** citizen contact means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.
- F. **Adversarial** encounter means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.
- G. **Unintentional Recording** is a video recording that results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary or administrative value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.
- H. **Traffic/Pedestrian Stop**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency, and has undertaken a stop of this nature.

V. Use and Documentation

- A. Officers may use only department-issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department. An officer assigned a BWC shall 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.

- B. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall check their issued BWCs at the beginning of each shift to make sure the devices are functioning properly and shall promptly report any malfunctions to the officer's supervisor.
- C. Officers shall wear their issued BWCs 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
- D. Officers must document BWC use and nonuse as follows:

Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report or CAD. Supervisors shall review these reports and initiate any corrective action deemed necessary.

VI. General Guidelines for Recording

- A. Officers shall activate their BWCs when anticipating that they will be involved in, or witness other officers of this agency involved in a pursuit, *Terry* stop of a motorist or pedestrian, search, seizure, arrest, use of force, adversarial contact, and during other activities likely to yield information having evidentiary value. However, officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines.
- B. Officers have discretion to record or not record general citizen contacts.
- C. Officers have no affirmative duty to inform people that a BWC is being operated or that they are being recorded.
- D. Once activated, the BWC should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The officer having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. Officers shall state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
- E. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy. Officers may when deemed necessary, mute the audio for the purposes of sensitive conversations with other

officers.

- F. Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.
- G. Officers shall not intentionally edit, alter, or erase any data, metadata or BWC recording unless otherwise expressly authorized by the chief or the chief's designee and in no case prior to 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.

VII. Special Guidelines for Recording

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

- A. To use their BWC to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- B. To use their BWC to take recorded statements from persons believed to be victims and witnesses of crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

In addition,

- C. Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. Officers may activate their BWCs when dealing with individuals believed to be experiencing a mental health crisis or event. BWCs shall be activated as necessary to document any use of force and the basis therefor and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental health issue.
- D. Officers should use their BWCs and or squad-based audio/video systems to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident.

VIII. Downloading and Labeling Data

- A. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to by docking the unit at the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume responsibility for transferring the data from it.
- B. Officers shall label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling.
 - 1. **Evidentiary:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision above the level of Petty Misdemeanor. The recording has potential evidentiary value for reasons identified by the officer at the time of labeling. Whether or not enforcement action was taken or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property.
 - 2. **Use of Force/Pursuit:** Whether or not enforcement action was taken or an arrest resulted, the event involved the application of force by a law enforcement officer of this or another agency.
 - 3. **Adversarial:** The incident involved an adversarial encounter.
 - 4. **Training Value:** The event was such that it may have value for training.
 - 5. **Unintentional Recording:** Footage captured through unintentional activation will be deleted after a 90-day retention.
 - 6. **General:** The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts are not evidence.
 - 7. **Traffic/Petty Citation:** The recording documents the issuance of a Petty Misdemeanor violation.
 - 8. **Traffic/Pedestrian Stop:** The recording documents the undertaking of a pedestrian or traffic stop no resulting in charges.
- C. Labeling and flagging designations may be corrected or amended based on additional information.

IIIX. Access to BWC Data

- A. All safeguards in place by Evidence.com will meet or exceed required security parameters. In addition:
- B. Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy.
- C. Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or

substandard performance. Officers may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident.

- D. Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, subd. 15, as may be amended from time to time. Officers should limit these displays to protect against the incidental disclosure of individuals whose identities are not public.
- E. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency onto public and social media websites.
- F. Officers shall refer members of the media or public seeking access to BWC data to the Frazee Police Department Records Division, who will process the request in accordance with the MGDPA and other governing laws. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.
- G. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.
- H. Per statute, 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 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;

In addition, 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;

- I. Prior to release of data, the Records Division shall determine if a file is appropriate for release if it contains subjects who may have rights under the MGDPA limiting public

disclosure of information about them. These individuals include:

1. Victims and alleged victims of criminal sexual conduct.
2. Victims of child abuse or neglect.
3. Vulnerable adults who are victims of maltreatment.
4. Undercover officers.
5. Informants.
6. When the video is clearly offensive to common sensitivities.
7. Victims of and witnesses to crimes, if the victim or witness has requested not to be identified publicly.
8. Individuals who called 911, and services subscribers whose lines were used to place a call to the 911 system.
9. Mandated reporters.
10. Juvenile witnesses, if the nature of the event or activity justifies protecting the identity of the witness.
11. Juveniles who are or may be delinquent or engaged in criminal acts.
12. Individuals who make complaints about violations with respect to the use of real property.
13. Officers and employees who are the subject of a complaint related to the events captured on video.
14. Other individuals whose identities the officer believes may be legally protected from public disclosure.

IX. Agency Use of Data

- A.** Supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.
- B.** Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- C.** Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainee's performance.
- D.** Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. § 13.09. The Chief of Police shall do, on average, quarterly internal audits by checking a sample of each officer's BWC

footage.

X. Data Retention

- A.** Evidentiary data shall be retained for the period specified in the General Records Retention Schedule for Minnesota Cities and the MN Statute governing BWC footage retentions. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable retention period.
- B.** Unintentionally recorded footage shall be retained for 90 days.
- C.** BWC footage that is classified as non-evidentiary, or becomes classified as nonevidentiary, shall be retained for a minimum of 90 days following the date of capture. If information comes to light indicating that non-evidentiary data has evidentiary value or value for training, it may be reclassified and retained for a longer period.
- D.** Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- E.** The following categories of BWC data be retained for a minimum period of one year:
 - any reportable firearms discharge;
 - any use of force by an officer that results in substantial bodily harm; and
 - any incident that results in a formal complaint against an officer.
- F.** The full, unedited, and unredacted recording of a peace officer using deadly force must be maintained indefinitely.
- G.** The department shall maintain an inventory of BWC recordings.
- H.** Violations of this policy could result in disciplinary action in accordance to the City of Frazee handbook.

XI. Data Classification

A. BWC data is presumptively private. BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result, BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.

B. Confidential data. Confidential data. BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the “private” classification listed above in part D, and the “public” classifications listed below in parts F(2)(a) and (b). However, special classifications and access rights are applicable to BWC data documenting incidents where an officer’s use of force results in death (see parts A and B, above).

C. Public data. The following BWC data is public:

a. Data that documents the final disposition of a disciplinary action against a public employee is classified as public without regard to any ongoing criminal investigation.

b. The following data is public unless it is part of an active criminal investigation or is subject to a more restrictive classification. For instance, data that reveals protected identities under Minnesota Statutes section 13.82, subdivision 17 (e.g., certain victims, witnesses, and others), should not be released even if it would otherwise fit into a category of data classified as public.

Data that record, describe, or otherwise document actions and circumstances surrounding the use of force by a peace officer that results in substantial bodily harm, or the discharge of a firearm by a peace officer in the course of duty other than for training or the killing of an animal that is sick, injured, or dangerous.

Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted, if practicable. In addition, any data on undercover officers must be redacted.

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