



**NORTH MANKATO POLICE DEPARTMENT
Body Worn Camera
Policy # 7a**

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Purpose

The primary purpose of using body-worn-cameras (BWCs) is to capture evidence arising from police-citizen encounters. This policy sets forth guidelines governing the use of BWCs and the management, access, storage, retrieval, retention, and the administering of the data that results. Compliance with these guidelines is mandatory, but it is recognized that officers must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain, and rapidly evolving. We also recognize and understand that not every aspect of an incident will be captured by a BWC, but it is another form of supporting documentation of an incident.

Policy

It is the policy of the North Mankato Police Department (the “Agency”) to authorize and require the use of Agency-issued BWCs as set forth below, and to administer BWC data as provided by law. This policy does not apply to squad-based (dash-cam) recording systems. The Chief or his/her designee may provide specific instruction to an officer assigned to a specialty unit or assignment such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

Definitions

A. **Adversarial:** 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, shouting or body posturing. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.

B. **Body-Worn-Camera (BWC):** A camera worn on an individual officer’s person that records and stores audio and video.

C. **BWC Administrator:** Typically, a supervisor 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.

D. **Evidentiary Value:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision. Whether or not enforcement action was taken, or an arrest resulted, the event involved the application of force by an officer of this agency of sufficient degree or under circumstances triggering a requirement for supervisory review or RTR. 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. The incident involved an adversarial encounter or resulted in a complaint against the officer. The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.

E. **General Citizen Contact:** 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. **Law Enforcement-Related Information:** 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.

G. **MGDPA or Data Practices Act:** The Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.

H. **Official Duties:** For purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this Agency.

I. **Records Retention Schedule:** The General Records Retention Schedule for Minnesota Cities located at https://www.mcfoa.org/resources/Documents/2021_Retention_Schedule.pdf.

J. **Unintentionally Recorded Footage:** A video recording that results from an officer's inadvertence in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in 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.

K. **Critical Incidents:** situations involving most or all of the following circumstances:

- Officer involved use of deadly force;
- Death or serious injury to the officer or another;
- A review of the officer's conduct for compliance with criminal laws is likely to occur regardless of whether there is a citizen complaint;
- It is foreseeable that the event will result in at least some degree of media interest or public scrutiny toward the agency and officer(s); and
- The circumstances will warrant due consideration for the emotional health and well-being of the officers involved.

Objectives

The North Mankato Police Department has adopted the use body worn cameras to accomplish the following objectives:

- To enhance law enforcement officer safety.
- To document statements and events during an incident.
- To enhance the officer(s) ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
- To preserve audio and visual information for use in current and future investigations.
- To provide a tool for self-critique and field evaluation during LEO training.
- To enhance the public trust by preserving factual representations of law enforcement officer-citizen interactions in the form of audio-video recordings.
- To assist with the defense of civil actions against law enforcement officers and the City of North Mankato.
- To assist with the training and evaluation of law enforcement officers.
- To promote and enhance safe vehicle operation.

Use and Documentation

A. All licensed Officers, Investigators and Administrators (“Officers”) are required, while on duty and investigating a call for service, to wear their Agency-issued BWCs and follow this policy. This also includes performing law enforcement activities under the command and control of another law enforcement officer or federal law enforcement official.

B. Officers may use only Agency-issued BWCs in the performance of official duties for this Agency or when otherwise performing authorized law enforcement services as an employee of this Agency.

C. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall power on their BWC upon the start of their shift and ensure their assigned BWC is functioning properly. Officers noting a malfunction during testing or at any other time shall promptly report the malfunction to the BWC Administrator. The officer shall then use a spare BWC that has been tested and is operating properly. The BWC Administrator shall take prompt action to address malfunctions and document the steps taken in writing.

D. Officers should 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.

E. Officers must document BWC use and non-use as follows:

1. Whenever an officer makes a recording, the existence of the recording shall be properly categorized and labeled.

2. Whenever an officer fails to record an activity that is required to be recorded under this policy or fails to record when the officer should have reasonably known to activate the BWC, the officer shall document the circumstances and reason for not recording in the officers incident report and notify their immediate supervisor. The supervisor shall review the circumstances and initiate corrective action.

F. The Agency will maintain the following records and documents relating to BWC use, which are classified as public data:

1. The total number of BWCs owned or maintained by the Agency;
2. A daily record of the total number of BWCs actually deployed and used by officers;
3. The total amount of recorded BWC data collected and maintained; and
4. This policy, together with the Records Retention Schedule.

General Guidelines for Recording

A. Officers shall activate their BWCs when responding to all calls for service and during all law enforcement-related encounters and activities, including but not limited to pursuits, felony in-progress calls, *Terry* stops of motorists or pedestrians, arrests, searches, suspect interviews, and interrogations, and during any police/citizen contact that becomes adversarial. However, officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so or may cause harm to themselves or the public, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines, part (E)(2) (above).

B. Except as otherwise directed, officers have discretion to record or not record incidental citizen contacts. If designated Brady-Giglio impaired, officers must activate BWC when responding to all calls for service and all general citizen contacts regardless of the circumstance.

C. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded. However, if asked, officers shall advise citizens they are being recorded.

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

E. Officers are allowed to mute the recording by using the mute button. Officers must describe why they are muting the conversation prior to doing so and can be done during Supervisor conferences or tactical preplanning.

F. Notwithstanding any other provision of 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 meals or breaks, during shift briefing or other meetings, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.

Special Guidelines for Recording

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

1. To use their BWCs to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value unless such

recording is otherwise expressly prohibited.

2. To use their BWCs to take recorded statements from persons believed to be victims of and witnesses to crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

B. Officers shall use their BWCs and 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 BWC's shall not be used to record inside these facilities.

C. 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 are recommended to be activated to document any use of force and the basis for it, and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors to be attributable to the mental health issue.

D. Officers are prohibited from using Agency-issued BWC equipment for personal use and are prohibited from making and/or disseminating personal copies of recordings created while on duty or while acting in their official capacity.

E. There shall be no audio or video recordings made in any court of law, unless authorized by a Judge (Minn. Court Rule 4, General Rules of Practice).

Documenting BWC Use

If any incident or video statements are recorded with the BWC system, the existence of that recording shall be documented in the officer's report.

Cessation of Recording

A. 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. If the recording is discontinued while an investigation, response, or incident is ongoing, officers shall state the reasons for ceasing the recording on camera before deactivating their BWC. A statement on camera such as, "Everything has settled down and the action appears to be over" should often suffice as a statement of reasons for stopping to record.

B. Recordings may be ceased during long term non-enforcement activities such as waiting for a tow truck, providing emergency lighting at traffic accidents, or other similar situations. Officers shall state the reasons for ceasing the recording on camera before deactivating their BWC.

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

Uploading 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 designated cloud-based storage by the end of that officer’s shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of all BWCs off all officers involved in the incident 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. Officers shall label each file with the Case # and description using the appropriate labels assigned by the agency:

Categorization and Retention

Category	Description	Retention Duration
Administrative	Internal affairs complaints or performance documentation	6 years
Adversarial Contact	See Definitions; (A), Page 1	2 years
Critical Incident	Full, unedited and unredacted of the entire recording	Indefinite
Evidence	See Definitions; (D) Page 2	7 years Homicides: Permanent
Miscellaneous	Tests, training, erroneous recordings, etc.	180 days
Non-enforcement contact	Directing traffic, funeral escort, motorist assist, medicals, generalized call for service, etc	180 days
Officer Injury	Injury is sustained by Officer as a result of assault or accident	7 years
Traffic Stop- Citation	Traffic stop where a citation is issued.	3 years
Traffic Stop- Warning	Traffic stop where a warning is issued.	180 days
Transport	Transport not because of an arrest. E.g.; mental health, courtesy rides, etc.	180 days

Warrant Arrest	Arrest and transport of subject on warrant with no local charges	180 days
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C. An officer shall notify the BWC administrator and Administrative Support Coordinator of files which they believe contain the likely presence of information about individuals whose identities may be legally protected under the MGDPA, which protects them from being disclosed to others, or any unintentionally recorded footage. Examples of such include:

1. Victims and alleged victims of criminal sexual conduct and sex trafficking.
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 service 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.

D. Labeling and flagging designations may be corrected or amended based on additional information by a ranking officer or their non-sworn designee.

Other Retention Requirements

A. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.

B. 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 1 year. 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.

C. The Agency shall maintain an inventory of BWC recordings having evidentiary value.

D. The Agency will post this policy, together with a link to its Records Retention Schedule, on its website.

Management of BWC Data:

The BWC Administrator is responsible for:

- A. Logs reflecting BWC equipment assignments, serial numbers, dates of issuance, and the officers to which each BWC was issued. These may be managed in a vendor-supplied software or another format designed by the BWC Administrator.
- B. Ensuring that BWC policies and procedures are reviewed and updated as needed.
- C. Ordering of all BWC equipment.
- D. Corrective action for non-functioning BWC equipment.
- E. Coordinating bi-annual independent audits.

Administering Access to BWC Data:

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

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

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

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

C. **Confidential data.** BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the “private” classification listed above and the “public” classifications listed below.

D. **Public data.** The following BWC data is public:

- 1. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.

2. Data that documents the use of force by a peace officer that results in substantial bodily harm.

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

4. Data that documents the final disposition of a disciplinary action against a public employee.

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

E. Access to BWC data by non-employees. Officers shall refer members of the media or public seeking access to BWC data to the Chief of police or his/her designee and/or the City's responsible authority, who shall process the request in accordance with the MGDPA and other governing laws. In particular:

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

a. If the data was collected or created as part of an active investigation.

b. To portions of the data that the Agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82, subd. 17.

c. Parties other than the data subjects may request body camera recordings after obtaining written authorization from all data subjects specified.

2. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines on redaction:

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

b. Data that would identify undercover officers must be redacted.

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

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

1. Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. 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, except in the case of critical incidents as outlined below:

2. The North Mankato Police Department recognizes that video and audio recordings from an event will likely contain more information than officers could perceive or take into account at the time of taking action, and there will therefore likely be differences between officers' recollection of events and what is captured by a digital recording device. Unless directed otherwise by the chief or chief's designee, the North Mankato Police Department will utilize the following procedures in an effort to assure that digital evidence is fairly used and considered in the course of investigations into critical incidents:

- a. The North Mankato Police Department's video and audio recordings of an event will not be made available to an officer for review prior to the officer's statement to investigators.
- b. The North Mankato Police Department expects that digital recordings will be used in a fair manner and to arrive at an accurate understanding of the incident and the officer's actions, based on what was perceived by and known to the officer at the time of acting. This agency will utilize the following procedures and communicate these procedures to any outside Investigating Agency:

-The officer will be reminded at the outset of the interview that differences between digital recordings and the officer's memory are to be expected;

-The officer, together with the officer's attorney, will be provided with an opportunity to review and reflect on relevant digital recordings before the interview has been concluded; and

-The officer will be provided with a fair opportunity to address any additional issues or concerns that arise from consideration of the digital evidence.

G. This specific section of this policy does not govern officers' review or use of digital evidence in matters other than critical incidents, such as in the course of preparing reports in arrest situations.

H. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this Agency to public and social media websites.

I. 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.

J. Other authorized disclosures of data.

1. 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 generally limit these displays in order to protect against the incidental disclosure of individuals whose identities are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video. In addition:
2. 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.

3. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.
4. Unless there is any law to the contrary, when an individual dies as a result of a use of force by a peace officer, an involved North Mankato Police Officer's BWC recordings must be allowed to be inspected, upon their request, all recording system data redacted no more than what is required by law, documenting the incident within five days of the request except as other provided in this section and in section 5.
 - a. The deceased individual's next of kin; and
 - b. The legal representative of the deceased individual's next of kin; and
 - c. The other parent of the deceased individual's child

The North Mankato Police Department may deny a request if it is determined that there is a compelling reason that inspection would interfere with an active investigation. If access is denied, the Chief of Police must provide a prompt, written denial to the 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.

5. Unless there is any law to the contrary, when an individual dies as a result of a use of force by a peace officer, the North Mankato Police Department shall release all BWCs recording of the involved North Mankato Police Officer(s), redacted 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 13.82, subd. 7.

Data Security Safeguards

A. Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view Agency BWC data unless specifically approved by the Chief of Police.

B. Officers shall not intentionally edit, alter, erase, or destroy any recording made with their BWC or data or metadata related to the recording prior to the expiration of the applicable retention period under section 13.825, subd. 3 except that full, unedited and unredacted recording of a peace officer using deadly force must be maintained indefinitely.

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

Agency Use of Data

A. Supervisors shall randomly review BWC usage by each officer to ensure compliance with this policy and to identify any performance areas in which additional training or guidance is required.

B. In addition, 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.

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

D. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

Biennial Audit

The North Mankato Police Department shall arrange for a biennial audit and report of the agency's BWC camera system and usage pursuant to §13.825 Subd. 9.

Compliance

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

The Minnesota Board of Peace Officer Standards and Training has authority to inspect the North Mankato Police Department's policies to ensure compliance with Minnesota State statutes. The MN POST Board may conduct an inspection based upon a complaint it receives concerning the North Mankato Police Department or through a random selection process. The Board may impose licensing sanctions and see injunctive relief under section 214.11 for failing to comply with the law.
