

MARSHALL POLICE DEPARTMENT POLICY		TITLE: BODY WORN CAMERAS	
ISSUE DATE: 02/25/15	LAST UPDATE: 03/18/20	SECTION: OPERATIONAL	FILE NAME: BODY CAMERAS
POLICY SOURCE: Model Policy by WILENET		TOTAL PAGES: 4	
SPECIAL INSTRUCTIONS: Changed in 2020 to comply with WI Statute 165.87.			

I. PURPOSE

This policy is intended to provide officers with instructions on when and how to use body-worn cameras (BWCs) so that officers may reliably record their contacts with the public and to comply with WI Statute 165.87.

II. POLICY

It is the policy of this department that officers shall activate the BWC when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations.

III. PROCEDURES

A. Administration

This agency has adopted the use of the BWC to accomplish several objectives. The primary objectives are as follows:

1. BWCs allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
2. Audio and video recordings also enhance this agency's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
3. The BWC may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

B. When and How to Use the BWC

1. Officers shall activate the BWC to record contacts in the performance of their official duties in which a case number will be generated or any other situation in which an officer believes the recording will be beneficial to the complaint, investigation, or contact. Recordings are required for all domestic disturbances, all arrests, all traffic stops, and all accident investigations.
2. Officers may inform individuals that they are being recorded but it is not required, unless other policy dictates otherwise. Officers should be considerate of locations where individuals have a reasonable expectation of privacy, such as a bathroom, locker room, etc, unless the recording is being made pursuant to an arrest, search of a residence, or search of an individual. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy (see items D.1-6).

3. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated in the incident report, if applicable.

4. Civilians shall not be allowed to review the recordings at the scene.

C. Procedures for BWC Use

1. BWC equipment is issued primarily to uniformed personnel as authorized by this agency. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.

2. Police personnel shall use only BWCs issued by this department. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the agency.

3. Police personnel who are assigned BWCs must complete an agency approved and/or provided training program to ensure proper use and operations. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.

4. BWC equipment is the responsibility of individual officers and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured.

5. Officers shall inspect and test the BWC prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems.

6. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the chief or his or her designee.

7. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes; which may lead to a citizen complaint; or any officer safety issues.

8. If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from viewing the video file.

9. Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the chief or his or her designee in accordance with state record retention laws. All requests and final decisions shall be kept on file.

10. Officers shall note in incident, arrest, and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.

D. Restrictions on Using the BWC

BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not generally be used to record:

1. Communications with other police personnel without the permission of the chief or his or her designee;

2. Encounters with undercover officers or confidential informants;

3. When on break or otherwise engaged in personal activities;
4. In any location where individuals have a reasonable expectation of privacy, such as a private residence when not part of an investigation or enforcement action, restroom, locker room, etc;
5. Officers have the discretion to keep their body cameras muted during confidential conversations with other law enforcement or public safety personnel while discussing incidents/investigations on scene or after the fact. Body cameras can be muted and/or turned off if crime witnesses and members of the community wish to discuss criminal activity and wish to remain anonymous.

E. Storage

1. All files shall be securely downloaded periodically and no later than the end of each shift. Each file shall contain information related to the date, BWC identifier, and assigned officer.
2. All images and sounds recorded by the BWC are the exclusive property of this department and shall not be released unless subject to an open records request, request from the district attorney's office, another law enforcement agency, or with approval from the Chief of Police or designee. This law enforcement agency is the legal custodian of the record.
3. Accessing, copying, or releasing files for non-law enforcement purposes are strictly prohibited.
4. All access to BWC files must be specifically authorized by the chief or his or her designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
5. Files should be securely stored in accordance with state records retention laws and no longer than useful for purposes of training or for use in an investigation or prosecution. In capital punishment prosecutions, recordings shall be kept until the offender is no longer under control of a criminal justice agency.
6. All body camera data shall be retained for a minimum of 120 days after the date of the recording. Body camera data shall be retained longer for all of the following:
 - a. An encounter that resulted in death of any individual or actual or alleged physical injury to an individual.
 - b. An encounter that resulted in custodial arrest.
 - c. A search during an authorized temporary questioning (Terry Stop) as provided under current law.
 - d. An encounter that included the use of force by law enforcement, except if the only use was the use of a firearm to dispatch an injured wild animal.
7. Retention beyond 120 days may be directed by a law enforcement officer or law enforcement agency, a board of police and fire commissioners, a prosecutor, a defendant, or a court that determines that the data has evidentiary value in a prosecution. An entity making the directive must submit a preservation order within 120 days after the incident.
8. Data from a body camera used on a law enforcement officer that are used in criminal, civil, or administrative proceeding may not be destroyed except upon final disposition, including appeals, a determination from the court or hearing examiner that the data is no longer needed, or an order from the court or hearing examiner.
9. Notwithstanding section E, (6 to 8), data from a body camera used on a law enforcement officer may not be destroyed during the period specified in Statute 19.35(5).

10. Data from a body camera used on a law enforcement officer are subject to the right of inspection and copying under Statute 19.35(1), in accordance with Statute 165.87.

F. Supervisory Responsibilities

1. Supervisory personnel shall ensure that officers equipped with BWC devices utilize them in accordance with policy and procedures defined herein.
2. Supervisors will randomly review BWC recordings to ensure that the equipment is operating properly and that officers are using the devices appropriately and in accordance with policy and to identify any areas in which additional training or guidance is required.
3. Supervisors shall ensure all department law enforcement officers are provided a copy of this policy.

Lee Hellenbrand
Chief of Police

John Nault
Chief of Police
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