MOTLEY POLICE DEPARTMENT

Policy Name: **MOBILE VIDEO RECORDERS AND BODY WORN CAMERAS**	
Policy Number: **SECTION 44**	Adoption Date: **January 1, 2025**
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MOBILE VIDEO RECORDERS

PURPOSE:
The Motley Police Department has equipped uniformed officers with Mobile Video Recording (MVR) systems to document events during the course of an incident. The purpose of this policy is to provide guidelines for the use, management, access, retention, handling of evidence, storage and retrieval of MVR data.

I. DEFINITIONS:

A. **Recorded Media –** Audio-video signals recorded or digitally stored on a storage device or portable media.
B. **Mobile Video Recorder (MVR) –** This refers to any system that captures audio and video signals that is capable of installation in a vehicle or individually worn by officers.
C. **MGDPA**- The Minnesota Government Data Practices Act, Minn. Stat. Chapter 13.
D. **MVR Administrator** – Designated personnel trained in the operational use of MVRs, storage and retrieval methods and procedures who assigns, tracks and maintains MVR equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor. Also responsible for the training of law enforcement operators on the use of the MVR.
E. **Activate –** Any process that causes the MVR system to transmit or store video or audio data.
F. **Records retention Schedule –** Refers to the General Records Retention Schedule for Minnesota Cities.
G. **Law Enforcement Related Information –** Means information captured or available for capture by use of a MVR that has evidentiary value because it documents events with respect to a stop, arrest, search, citation or charging decision.
H. **Evidentiary Value** – Means that the information may be useful as prof 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.
I. **General Citizen Contact –** Means an informal encounter with a citizen that is not and does not become law enforcement related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a tow truck, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.
J. **Adversarial** - 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.

K. **Unintentionally Recorded Footage –** A video recording that results from an officer's inadvertence or neglect in operating the MVR, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recording made in the Police Department locker rooms, restrooms, and recording made while officers were engaged in conversation of a non-business, personal nature with the expectation that the conversation was not being recorded.

L. **Official Duties –** For the purpose of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

M. **BWC –** Body Worn Camera. This refers only to the individually issued cameras carried on the officers uniform.

N. **PCVS –** Patrol Car Video System. This refers only to the MVR system inside the squad car.

II. POLICY: The use of the MVR system provides documentation of law enforcement interaction with the public by providing evidence for the judicial system, internal review, or review by the public through a formal request and as determined by the Minnesota Government Data Practices ACT (MGDPA).

III. SCOPE: This policy governs the use of MVR's in the course of official duties. The chief or chief's designee may supersede this policy by providing specific instructions for MVR use to individual officers or providing specific instructions pertaining to particular events or classes of events, including but not limited to, political rallies and demonstrations. The chief or designee may also provide specific instructions or standard operating procedures for MVR 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. PROCEDURES:

A. OPERATIONAL OBJECTIVES

This agency has adopted the use of MVRs to accomplish the following objectives:

1. To enhance officer safety.
2. To accurately document statements and events during an incident.
3. To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
4. To provide impartial measurement for self-critique and field evaluation during recruitment and new officer training.
5. To enhance the public trust by preserving objective factual representations of officer – citizen interactions in the form of video and audio recordings made via the MVR system.
6. To identify training needs.

B. GENERAL PROCEDURES

It is the responsibility of this agency to ensure that the MVR equipment is functioning and installed properly according to the manufactures' recommendations.

1. MVR patrol car installed equipment shall automatically activate when emergency equipment (lights, siren) is operating, or the officer can start recording when they are outside their vehicle via wireless transmitter. The system may also be activated manually form the control panel affixed to the interior of the vehicle.
2. Placement and operation of the system components within the patrol car shall be based on officer safety requirement and manufacturers recommendations.
3. All Motley Police Department staff shall successfully complete training on all MVR equipment prior to being deployed in an operational setting.
4. The Motley Police Department will establish and maintain a method for the public to view recorded events to the extent that such data is classified as public under MGDPA.
5. The Motley Police Department will ensure officers, investigators and prosecutors have access to the recorded events according to accepted practices for making the recordings accessible within the criminal justice system.

V. USE AND DOCUMENTATION:

A. AGENCY RESPONSIBILITIES

The Motley Police Department will maintain the following records and documents relating to BWC use which are classified as public data.

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

B. OFFICER RESPONSIBILITIES

1. Officers may use only department-issued MVR equipment in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.
2. Officers who have been issued a BWC, as part of their uniform, wear and activate the BWC consistent with this policy. Prior to going into service each officer will properly equip him/herself to record audio and video in the field. The exception is if the officer's BWC system is not functioning and the MVR administrator and/or a supervisor have been notified.
3. At the start of each shift, officers will confirm that the MVR systems are operational in accordance with manufacture specifications and department procedures and training. This includes both BWC and PCVS.
4. During their shift, officers will follow the established policies and procedures for documenting, categorizing, and retaining any recorded media.

5. Any time an officer reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., an adversarial contact) the officer should notify a supervisor of the existence of the recording.
6. Malfunctions, damage, loss, or theft of MVR equipment shall immediately be reported to a supervisor or MVR administrator.
7. BWCs shall not be worn while officers are engaged in outside agency employment, unless previously authorized by the chief or designee.
8. Officers must document MVR data use and non-use as follows:
    a. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report.
    b. Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only part of the activity, the officer must document the circumstances and reasons for not recording in an incident report. Supervisors shall review these reports and initiate any corrective action deemed necessary.

C. SUPERVISOR RESPONSIBILITIES

1. Supervisors shall ensure officers are using their MVR equipment per policy.
2. Supervisors should determine corrective action for non-functioning MVR equipment.
3. When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene to ensure that the MVR is properly uploaded.

VI. ACTIVATION OF THE MVR

This policy is not intended to describe every possible situation in which the MVR system may be used, although there are many situations where its use is appropriate. An officer may activate the MVR system any time the officer believes its use would be appropriate and/or valuable to document an incident.

At no time is an officer expected to jeopardize his/her safety in order to activate the MVR. However, the MVR should (a generally required or expected action) be activated in the following situations as soon as practicable.

A. REQUIRED ACTIVATION

(a) All field contacts involving actual or potential criminal conduct, including but not limited to:

1. Traffic stops (to include traffic violations, stranded motorists and all crime interdiction stops)
2. Priority responses
3. Vehicle pursuits
4. Suspicious vehicles

5. Arrests
6. Vehicle searches
7. Physical or verbal confrontations or use of force
8. Prisoner transports
9. Non-custody transports to include juveniles
10. Pedestrian checks
11. DWI investigations including field sobriety tests
12. Taking a statement or information from a suspect or witness
13. Medical incidents attended to by members of this department

(b) All self-initiated activity in which an officer would normally notify dispatch.

(c) Any call for service involving a crime where the MVR may aid in the apprehension and/or prosecution of a suspect, including but not limited to:

1. Family violence calls
2. Disturbance of the peace calls
3. Offenses involving violence or weapons

(d) Any other contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording.

(e) Any other circumstance where the officer, through training and experience, believes that a recording of an incident would be appropriate.

(f) Officers have discretion to record or not record general citizen contacts.

(g) Officers have no affirmative duty to inform people that an MVR is being operated or that the individuals are being recorded.

B. CESSATION OF RECORDING

1. Once activated, the MVR 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. 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 the MVR. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
2. Officers shall not intentionally block the MVR's audio or visual recording functionality to defeat the purposes of this policy.

C. ACTIVATION NOT REQUIRED

1. Notwithstanding any other provision in this policy, officers shall not use their MVR to record other agency personnel during non-enforcement related activities, such as during pre-shift 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.

D. SPECIAL CIRCUMSTANCES

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

1. To use their MVR 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 prohibited.
2. To use their MVRs 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. Digital recorders are still required to be used during the taking of formal statements.
3. 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, MVRs shall be activated as necessary to document any use of force and the basis for it, and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributed to the mental health issue.
4. Officers shall use their MVRs to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health 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.

VII. DOWNLOADING AND LABELING DATA

A. Each officer using BWCs is responsible for transferring or assuring the proper transfer of the data from his or her own BWC by the end of their shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in great bodily harm or death, 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 MVR data files at the time of the video capture or transfer to storage and should consult with a supervisor if in doubt as to the appropriate labeling. Officers should assign as many of the following labels as are applicable to each file. Noted in parenthesis is the data retention period for that label.

1. **Major Case Recordings:** (Until Deleted) Would include cases in which an indefinite retention period is set by statute, including; Criminal Sexual Contact, Arson, Death Investigations (Homicide), or others which may contain a permanent retention period.

2. Evidentiary-Case File: (4 Years) 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 office 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 dispose property.

3. **Use of Force-Pursuit:** (7 Years) 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.
4. **Restricted**: (Until Deleted) The incident involved is part of an investigation, or one in which an administrative decision is made to restrict access to it.
5. **Training Value:** (Until Deleted) The event was such that it may have value for training.
6. **Unintentional Recording:** (90 Days – Restricted Access) Footage captured through unintentional activation will be deleted at the end of the officer shift.
7. **Pending Review:** (Until Deleted) Set by Evidence.com as a default category, in general not utilized in our classifications.
8. **Uncategorized:** (1 Year) The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value beyond that of a Traffic/Petty Summons. Recordings of general citizen contacts are not evidence.
9. **Civil Process/Warrant Check:** (90 Days) This category would be used for civil process paper service and warrant checks (not arrests).
10. **Citizen Contact:** (90 Days) This category means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a tow truck, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

C. In addition, officers shall make an attempt to identify those persons whose image may have been captured in the BWC video footage. The identity of these persons is important in order to comply with MGDPA requirements related to data subjects. This data should be documented with the officer's narrative report or CAD notes. At times it will be impractical to identify every individual at a scene, but special attention should be given to identifying the following: Victims, undercover deputies, informants, mandated reporters, juvenile witnesses (if the nature of the event or activity justifies protecting their identity) and juvenile delinquents, and individual complainants.

VIII. ACCESS TO MVR DATA

A. **DATA SUBJECTS**: Under Minnesota Law, the following are considered data subjects for purposes of administering access to MVR 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. **MVR DATA IS PRESUMPTIVELY PRIVATE**: MVR recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a Result:

1. MVR data pertaining to people is presumed private, as is MVR data pertaining to businesses or other entities.

2. Some MVR data is classified as confidential. (see C. below).
3. Some MVR data is classified as public. (see D. below)

A. **CONFIDENTIAL DATA:** MVR 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" classification listed below.

D. **PUBLIC DATA**: The following MVR data is public:

1. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
2. Data that documents the use of force by a peace officer that results in substantial bodily harm.
3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted (if practicable). In addition, any data on undercover officers must be redacted.
4. Data that documents the final 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 MVR DATA BY NON-EMPLOYEES:** Officers shall refer members of the media or public seeing MVR data to the responsible authority or data practices designee, 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 MVR data about themselves 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.
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, shall not be redacted.

F. **ACCESS BY PEACE OFFICERS AND LAW ENFORCEMNT EMPLOYEES**:

No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes:

1. Deputies may access and view stored MVR video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Deputies 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.
2. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency to public and social media websites.
3. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.
4. Notes should be entered to document why the video is being accessed (e.g. "Report writing", "Court prep", "Pursuit review", Routine audit", Case investigation', etc.)

1. Officers may access and view stored MVR 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.

G. **OTHER AUTHORIZED DISCLOSURES OF DATA**:

1. Officers may display portions of MVR 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 audio and not displaying video. In addition:

a. MVR 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.

b. MVR data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

C. IX. DATA SECURITY SAFEGUARDS

A. All safeguards in place by evidence.com will meet or exceed required security parameters including back-up and storage of video files.

B. Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy.

C. Officers shall not intentionally edit, alter, or erase any MVR recording unless otherwise expressly authorized by the chief or the chief's designee.

D. 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.

X. AGENCY USE OF DATA

A. At least once a month, supervisors will randomly review MVR usage by each officer to ensure compliance with this policy and will identify any performance areas in which additional training or guidance is needed.
B. In addition, supervisors and other assigned personnel may access MVR 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 MVR data as evidence of misconduct or as a basis for discipline.
D. Officers should contact their supervisors to discuss retaining and using MVR 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 MVR data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

D. XI. DATA RETENTION

A. All MVR data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded non-evidentiary data.
B. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year.
C. Certain kinds of MVR data must be retained for six years:

1. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review.
2. Data documenting circumstances that have given rise to a formal complaint against an officer.

D. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.
E. Subject to part F (below), all other MVR footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
F. Upon written request by a MVR data subject, the agency shall retain a recording 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.
G. The department shall maintain an inventory of MVR recordings having evidentiary value.
H. The department will post this policy on its website.

E. XII. COMPLIANCE

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

BODY WORN CAMERAS

I. 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 administering the data that results. Compliance with these guidelines is mandatory. Officers are excused from recording requirements, however, when they must prioritize other primary duties or safety concerns, especially 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, and to administer BWC data as provided by law.

Scope

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

III. DEFINITIONS

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, depending on context, to the General Records Retention Schedule for Minnesota Cities (last revised March 2021) or to the agency's records retention schedule approved pursuant to Minnesota Statutes section 138.17. \

C. Law enforcement-related refers to activities or information pertaining to a stop, arrest, search, seizure, use of force, investigation, 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 refers to 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. Unintentionally recorded footage 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 value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms and 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. Official duties, for purposes of this policy, refers to law enforcement activities and services performed by an officer of this agency while on duty. In circumstances where an officer is also employed by another agency as a peace officer, the officer is not performing official duties on behalf of this agency while acting in the course and scope of their employment for the other agency.

IV. USE AND DOCUMENTATION

A. Officers may use only department issued BWCs while engaged in the performance of official duties.

B. Officers who are engaged in the performance of official duties and have been issued BWCs shall use and operate them in compliance with this policy. This requirement includes situations where the officer is under the command and control of another chief law enforcement officer or federal law enforcement official while performing official duties for this agency.

C. Officers shall conduct a function test of their issued BWCs at the beginning of each shift. Officers noting a malfunction during testing or at any other time shall promptly report it to the officer's supervisor and shall document the report in writing. Supervisors shall take prompt action to address malfunctions and document the steps taken in writing.

D. Officers shall wear their issued BWC at or above the midline of the waist in a position that maximizes the capacity of the device to record video footage of the officer's activities.

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

1. Whenever an officer makes a recording, the existence of the recording shall be documented in the incident report.

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

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

1. The total number of BWCs owned or maintained by the agency;

2. A daily record of the total number of BWCs actually deployed and used by officers and, if applicable, the precincts in which they were used;

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

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

V. GENERAL GUIDELINES FOR RECORDING

A. Officers shall activate their BWCs when they become involved in, should reasonably anticipate becoming involved in, or when witnessing another officer engage 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, part (E)(2) (above).

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 the individuals are being recorded.

D. Once activated, officers should continue recording with their BWCs 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 direct that recording be discontinued when additional recording is unlikely to capture information having evidentiary value. If the recording is discontinued while an investigation, response, or incident is ongoing, the officer 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.

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 the recording is authorized as part of an administrative or criminal investigation.

VI. SPECIAL GUIDELINES FOR RECORDING

Officers may, in the exercise of sound discretion, use their BWCs:

A. 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 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.

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. When responding to an apparent mental health crisis or event, BWCs shall be activated as necessary to document any use of force and

the basis for it, the basis for any transport hold, 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 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.

VII. DOWNLOADING AND LABELING DATA

A. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from their camera to Axon Evidence 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 capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. Officers should assign as many of the following labels as are applicable to each file:

1. Evidence—criminal: The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.

2. Evidence—force: 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. Recordings that document the use of deadly are covered separately.

3. Evidence—deadly force: The event involved the application of deadly force by a peace officer, regardless of whether death occurred.

4. Evidence—administrative: The incident involved an adversarial encounter or resulted in a complaint against the officer.

5. Evidence—other: The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.

6. Training: The event was such that it may have value for training.

7. **Not evidence:** The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts and unintentionally recorded footage are not evidence.

C. In addition, officers shall flag each file as appropriate to indicate that it contains information about data subjects who may have rights under the MGDPA limiting disclosure of information about them. These individuals 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 portions of the video are 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 made a complaint of a violation pertaining 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.

Administering Access to BWC Data:

A. Death resulting from force—access to data by survivors and legal counsel. Notwithstanding any other law or policy to the contrary, when an individual dies as a result of force used by an officer of this agency, all BWC data documenting the incident, redacted only as required by law, must be made available for inspection by any of the following individuals within five days of their request:

1. The deceased individual's next of kin.

2. The legal representative of the deceased individual's next of kin.

3. The other parent of the deceased individual's child.

The request may be denied if 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 requestor with a short description of the compelling reason that access was denied. The written denial must also provide notice that relief may be sought from the district court pursuant to Minnesota Statutes section 13.82, subdivision 7.

B. Death resulting from force—release of data to the public. When an individual dies as a result of force used by an officer of this agency, all BWC data documenting the incident, redacted only as required by law, must be released and classified as public within 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 Minnesota Statutes section 13.82, subdivision 7.

C. 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.

D. 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* part E, below).

3. Some BWC data is classified as public (*see* part F, below).

E. 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).

F. Public data.

1. 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.

2. 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.

   a. 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.

   b. 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.

   c.

G. Access to BWC data by non-employees. Officers shall refer members of the media or public seeking access to BWC data to Morrison County Records Department, who shall process the request in accordance with the MGDPA and other governing laws. In particular:

1. An individual shall be <u>provided with access and allowed to review</u> 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 Minnesota Statutes section 13.82, subdivision 17.

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

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.

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

1. Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Except as provided in the critical incident response policy, 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.

2. Agency personnel shall document their reasons for accessing stored BWC data the time of each access. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency to public and social media websites.

3. Employees seeking to inspect or have copies of BWC data for non-business reasons may make a request for it in the same manner as any member of the public.

I. Other authorized disclosures of data. Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minnesota Statutes section 13.82, subdivision 15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of identities that are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video. In addition,

1. BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.
2.
3. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

Data Security Safeguards

A. Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy.

B. This policy prohibits altering, erasing, or destroying any BWC data or metadata prior to the expiration of the applicable retention period.

C. As required by Minnesota Statutes section 13.825, subdivision 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. At least once a month, supervisors will randomly review BWC usage by each officer to whom a BWC is issued, or available for use, 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.

Data Retention

A. Retention periods for BWC data are established by law and the Records Retention Schedule. When a particular recording is subject to more than one retention period, it shall be maintained for the longest applicable period.

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

C. Certain kinds of BWC data must be maintained for a minimum period of one year. These are:

1. Data that document the accidental discharge of a firearm by a peace officer in the course of duty.

2. Data that document an incident resulting in a formal complaint against an officer. However, a longer retention period applies if the recording is relevant to an internal affairs investigation.

D. Data documenting the use of force by a peace officer that results in substantial bodily harm, or force that is of a sufficient type or degree to require supervisory review under the agency's policy, must be retained for a minimum period of seven years.

E. Data determined to have evidentiary value in any internal affairs investigation must be retained for five years after termination or separation of the employee who is the subject of the investigation. *(POL 05880.)*

F. Other data having evidentiary value shall be retained for the period specified by law or the records retention schedule.

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

H. 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.

I. The department shall maintain an inventory of BWC recordings having evidentiary value.

J. The department will post this policy, together with *[a link to]* its records retention schedule, on its website.

Compliance

Supervisors shall monitor for compliance with this policy. Noncompliance may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minnesota Statutes section 13.09.