



## **Robbinsdale Police Department**

### **Department Manual**

#### **Use of Body Worn Cameras**

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#### **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 is generated. 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.

#### **II. Policy**

It is the policy of the Robbinsdale Police Department to authorize and require the use of department-issued BWCs as set forth below, and to administer BWC data as provided by law.

#### **III. Scope**

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of squad-based camera recording systems or other mobile surveillance devices. This policy does not apply to audio/video recordings, interviews or interrogations conducted at any Robbinsdale Police Department facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices) unless captured by a BWC.

The chief of police or chief's designee may supersede this policy by providing specific instructions for BWC use to individual officers, or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. The chief or designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized

details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

#### IV. Objectives

The Robbinsdale Police Department has adopted the use of BWCs to accomplish the following objectives:

- A. To enhance public safety.
- B. To document statements and events during the course of an incident.
- C. To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation and presentation.
- D. To preserve audio and visual information for use in current and future investigations.
- E. To provide a tool for self-critique and field evaluation during officer training.
- F. To enhance the public trust by preserving factual representations of officer-citizen interactions in the form of audio-video recordings for improved subject behavior and officer accountability.
- G. To assist with the defense and civil actions against law enforcement officers and the City of Robbinsdale.
- H. To assist with the training and evaluation of officers.

#### V. 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** 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. **Unintentionally Recorded Footage** is a video recording which 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, 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 the purposes of this policy, means that the officer is on-duty and performing authorized law enforcement services on behalf of this agency.
- I. **Body Worn Camera (BWC)** A device worn on the person of a police department employee that is capable of recording video and audio footage.
- J. **Data Subject** – 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.
- K. **Confidential Data** – BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over private and or public classifications.
- L. **Private Data** – BWC recordings are presumptively classified as private data about the data subjects under Minnesota statutes, with applicable Data Practices Act provisions applying.
- M. **Public Data** – In certain instances, BWC data is classified public data under Minnesota statutes, with applicable provisions of the Data Practices Act applying:
  - 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 (Minn. Stat 13.825, subd, 2(a)(2)). 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.
5. If another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other more restricted classification. For instance, data that reveals protected identities under Minnesota Statute 13.82, subd. 17 would not be released, even if it would otherwise fit into the public category.

## **VI. 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. All police officers working uniform patrol, uniform special details, traffic duties, and school resource duties, shall use a BWC unless permission has been granted by a supervisor to deviate from this requirement. Plain clothes investigators/officers and administrators are not obligated to use a BWC but may elect to use a BWC on a case by case basis, pursuant to the needs of the specific investigation or duty.
- C. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall conduct a function test of their issued BWCs at the beginning of each shift to make sure the devices are operating properly. Officers noting a malfunction during testing or at any other time shall promptly report the malfunction 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 should wear their issued BWCs at the location on their body and in the manner specified in training.
- E. Officers must document BWC non-use 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, or is directed by a supervisor not to record an activity. The officer must document the circumstances and reasons for not recording in an incident report or CAD event (if no report is completed). Supervisors shall ensure BWC use is in compliance with this policy when reviewing reports and CAD data.
- F. Officers experiencing a loss of battery power to the BWC device shall replace the BWC with a charged device as soon as practical.
- G. The department will maintain the following records relating to BWC use, which are classified as public data:
  1. The total number of BWCs owned and 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.

## **VII. General Guidelines for Recording**

- A. This policy is not intended to describe every possible situation in which the BWC should be activated, although there are many situations where use of the BWC is appropriate. Officers should activate the BWC anytime the user believes it would be appropriate or valuable to record an incident or encounter.
- B. Officers shall activate their BWCs upon arrival to all calls for service and field generated activities, including but not limited to pursuits, *Terry* stops of motorists or pedestrians, arrests, searches, suspect interviews and interrogations, and during any police/citizen contact that becomes or is anticipated to be adversarial. This requirement includes assisting officers. 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 VI (e-2 above).
- C. Officers have discretion to record or not record general citizen contacts.
- D. Officers shall not record encounters with undercover officers or informants.
- E. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded. Officers may elect to inform individuals they are being recorded if the officer deems it necessary and appropriate. If an individual asks the officer if they are recording, the officer shall answer truthfully. Individuals requesting government data will be referred to the records division.
- F. If a request is made for a BWC to be turned off by a party being contacted, the officer should take into account the overall circumstances and what is most beneficial to all involved, before deciding to honor the request. For example, an officer may choose to turn off the BWC if its operation is inhibiting a victim or witness from giving a statement. Factors to consider may include the type of call and the vulnerability of the victim.
- G. 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 or if an incident is of such duration that it is necessary to deactivate the BWC to conserve power or storage. If the recording is discontinued while an investigation, response, or incident is ongoing, officers

shall document the reason for ceasing the recording in an incident report, CAD event, or verbally on the BWC recording. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.

- H. Recording may be temporarily ceased or the audio muted to exchange information with other officers, legal counsel, or the lens obstructed in order to avoid capturing images of undercover officers, informants, or citizens where based on training and experience, in the judgment of the officer recording, would not be appropriate or consistent with this policy or if non- public or tactical data would be released. The reason to cease and resume recording (or to mute audio or obstruct the lens) will be noted by the officer in an incident report, CAD event, or verbally on the BWC recording.
- I. 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.
- J. In instances of non-recording, where recording was preferred or required, the officers shall consult with the supervisor and/or the chief's designee, to see if the video data may be recovered from the BWC utilizing the record-after-the-fact function. This consultation should occur as soon as practical after it is realized that a recording was not captured.
- K. Formal statements from suspects, victims, or witnesses that are captured on the BWC should also be recorded as separate recordings on a non BWC audio recording device to be entered as evidence.

### **VIII. Special Guidelines for Recording**

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

- A. 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.
- 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 should not record in these facilities unless the officer anticipates witnessing a criminal event, collecting evidentiary recordings, or being involved in or witnessing an adversarial encounter or use-of-force incident.

### **IX. 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 the BWC server 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, chief's designee, or investigative agency shall take custody of the officer's BWC and assume responsibility for transferring the data from it. Prior to removal of the BWC device by the above mentioned parties, officers shall leave BWC equipment on their uniform until photographs and other evidentiary processes are completed.
- B. Officers shall label the BWC data files at the conclusion of each video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. Officers shall properly categorize all BWC recordings using one of the labels pre-programmed into the BWC. The category label selected shall most closely represent the type of content captured on the BWC. The selected category shall determine the retention period of the file.
- C. In the event a BWC data file is mislabeled by an officer, or additional information is discovered that requires changing the data file label, a request to change the label and reasoning for said change shall be forwarded to the chief's designee.

## **X. 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 and 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" classification 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, if practicable. 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 Minnesota 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's 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 BWC 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 Minnesota 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, may not be redacted.
  - d. Data subjects shall complete an official request form and pay any associated fees from the adopted fee schedule.

- F. **Access by peace officers and law enforcement employees.** No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes.
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. To ensure accuracy of reports, an officer 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. Supervisors may view recordings any time they are making inquiry into an alleged complaint, performance issue, or to ensure policy compliance.
  3. 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. All instances of access to BWC data are digitally logged.
  4. 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. **Other authorized disclosures of data.** Officers may display portions of BWC footage to witnesses as necessary for purposes of investigations as allowed by Minnesota 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 the 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. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

## **XI. Agency and Supervisor Use of Data**

- A. Supervisors shall review BWC usage by each officer on a regular, on-going basis to ensure compliance with this policy, including in areas of required recording and data labeling.
- 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 trainee's performance.

## **XII. Data Security Safeguards**

- A. BWC devices issued by the City of Robbinsdale are designed and manufactured to prevent users from being able to alter, edit, and/or delete recorded footage. Any recorded footage will automatically upload to a central storage location via secured wireless and/or wired connection to the department's video server.
- B. 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.
- C. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief of police or the chief's designee. Any instance of authorized deletion, alteration, or editing of BWC recordings shall be recorded in an administrative log; which will include a detailed reason for authorization and by whom authorization was approved.
- D. As required by Minnesota 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.

## **XIII. Data Retention**

It is the BWC user's responsibility to properly categorize all recorded BWC footage for purposes of retention timelines, using categories established by the Robbinsdale Police Department. The following guidelines will be adhered to regarding data retention:

- A. All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or 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. The following types of BWC footage shall be retained for at least six years:
  - 1. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree resulting in substantial bodily injury.
  - 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. All other BWC footage that is classified as non-evidentiary, or that no longer contains evidentiary value, or is not maintained for training, may be destroyed after 90 days.
- F. 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.
- G. The department will post this policy, together with its Records Retention Schedule, on its website.

#### **XIV. 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 Minnesota Stat.13.09.