



Body Worn Recording System

Section 3-27

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INDEX

[3-27.1 Definitions](#)

[3-27.2 Use and Documentation](#)

[3-27.3 General Guidelines for Recording](#)

[3-27.4 Special Guidelines for Recording](#)

[3-27.5 Downloading and Labeling Data](#)

[3-27.6 Access to ICV Data](#)

[3-27.7 Agency Use of Data](#)

[3-27.8 Data Retention](#)

[3-27.9 Compliance](#)

POLICY

The City of Apple Valley and the Police Department recognizes the value of body worn recording as an effective law enforcement tool. Our policy is to use and maintain a body worn recording system to enhance efforts to record evidence and officer interactions, and to administer the system data as provided by law.

PURPOSE

This policy establishes the framework for proper use of body worn recording system technology and the administering of the data associated with the use of the system.

PROCEDURES

3-27.1 Definitions

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

- A. **Adversarial** means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward another, or at least one person directs toward another individual verbal conduct consisting of threatening, challenging, swearing, yelling, or shouting.

- B. **Evidentiary value** means information that may be useful in: establishing or documenting criminal activity; related civil or administrative proceeding; or in considering an allegation against a City employee, another law enforcement agency or its personnel.



- C. **General citizen contact** means an 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 of evidentiary value. Examples include, but are not limited to, assisting a motorist by providing directions or summoning a wrecker.
- D. **Law enforcement-related information** means information captured or available for capture by use of a body worn recording system that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- E. **MGDPA** refers to Chapter 13 of the Minnesota Statutes, as amended from time to time, known as the Minnesota Government Data Practices Act
- F. **Official duties**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services or when otherwise performing authorized law enforcement services as an employee of this department.
- G. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.
- H. **Unintentionally recorded footage** is a recording that results from an officer's inadvertence or neglect in operating the body worn camera system, provided that no portion of the resulting recording has evidentiary or administrative value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.

3-27.2 Use and Documentation

- A. An officer may only use department-issued body worn recording systems in the performance of official duties.
- B. Each officer shall operate body worn recording system equipment consistent with this policy. Each officer should perform a daily function check of the body worn recording system. An officer should promptly report any malfunctions discovered during the check, or discovered at any time thereafter, to the officer's supervisor and document the report. Supervisor's should take steps to address malfunctions and document the steps taken.
- C. An officer should wear the body worn recording system at a location on the body and in the manner specified in training.
- D. Whenever an officer fails to record an activity that is required to be recorded under this policy or records only a part of the activity, the officer should document the circumstances



and reasons for not recording in an incident report or CAD record. Supervisors should review these reports and initiate any corrective action deemed necessary.

3-27.3 General Guidelines for Recording

- A. The Department configures body worn recording components to record in unison with a vehicle' In-Car Video System ("ICV"), which includes activation: upon engagement of the vehicle's emergency lights or siren; when the vehicle speed reaches 100mph; or when the crash sensor located in the vehicle triggers system activation.
- B. If not already activated, officers should activate the body worn recording system when anticipating that they will be involved in pursuit, stop of a motorist or pedestrian, search, seizure, arrest, use of force, or adversarial contact, and during other activities likely to yield information having evidentiary value. If not already activated, officers should activate the body worn recording system when they witness other officers of the Department involved in a pursuit, stop of a motorist or pedestrian, search, seizure, arrest, use of force, or adversarial contact. 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 Section 3.26.2 (D).
- C. Officers have discretion to record or not record general citizen contacts.
- D. Officers have no affirmative duty to inform people that a body worn recording system is being operated or that they are being recorded.
- E. Once the body worn recording system is activated, the officers should continue recording until the conclusion of the incident/encounter or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. Officers should state the reasons for ceasing the recording on camera before deactivating the recording system. If, after the ceasing of recording, circumstances change that would require recording as set forth in this policy, officers should reactivate their body worn recording system to capture information having evidentiary value. Temporarily muting the officer's microphone to have a private conversation with other officers about the encounter/incident at hand is allowable.
- F. Officers should not intentionally block the body worn recording system's audio or visual recording functionality to defeat the purposes of this policy.
- G. Notwithstanding any other provision in this policy, officers should not use their body worn recording system to record other agency personnel during non-enforcement related activities, such as to make audio recordings during meal breaks or other private conversations, unless recording is authorized as part of an administrative or criminal investigation.



- H. Officers should activate their body worn camera system when dealing with individuals believed to be experiencing a mental health crisis or event to document any use of force or other information having evidentiary value or to aid in the determination of the individual's ability to care for his or her self.
- I. Officers shall not intentionally edit, alter, or erase any body worn recording.

3-27.4 Special Guidelines for Recording

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

- A. To use their body worn recording system 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. When other digital recording methods are unavailable, to use their body worn recording system to take recorded statements: from persons believed to be victims of crimes; from witnesses to crimes; and from persons suspected of committing crimes, taking into consideration the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.
- C. Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value or is required under Section 3.26.3 (H).

3-27.5 Downloading and Labeling Data

- A. Each officer using a body worn recording system is responsible for transferring or assuring the proper transfer of the data from his or her ICV to the City's data-storage server by the end of the officer's shift. If the officer is involved in a traffic accident, shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator may take custody of the officer's ICV and assume responsibility for transferring the data from the officer's ICV to the City's data-storage server.
- B. Body worn recording system data files should be labeled at the time of capture or prior to the transfer to storage. Personnel should consult with a supervisor if in doubt as to the appropriate labeling as many of the following labels are applicable to each file. When labelling, the most serious offense or charge should be considered:
 - 1. **Traffic Citation:** The recording captures a traffic incident where a motorist, bicyclist, or pedestrian was or will be issued a petty misdemeanor or misdemeanor citation for a traffic related offense.
 - 2. **Evidence—criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.



3. **Evidence—force:** 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. **Evidence—property:** 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.
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. These recordings should be transferred from the server to a hard drive or portable storage device for use in training.
7. **Unintentionally recorded footage:** See Section 3.27.1 (G.) The events or subject matter that was accidentally recorded shall be documented on a form or in a manner specified by the department.
8. **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 are not evidence.

In addition, officers should flag each file as appropriate to indicate that it contains information about data subjects whom may have rights under the MGDPA limiting public disclosure of information about them. These individuals include:

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



- C. Labeling and flagging designations may be corrected or amended based on additional information.

3-27.6 Access to Body Worn Recording System Data

- A. The MGDPA identifies whom is a subject of the body worn recording system data and controls the classification and access to the data.
- B. Officers may access and view stored video data only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Unless otherwise directed by a supervisor, 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.
- C. Officers may display portions of body worn recording system 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 exercise caution in limiting these displays to protect against the incidental disclosure of individuals whose identities are not public
- D. Department personnel are prohibited from accessing body worn recording system data for non-business reasons or from sharing the data for non-law enforcement related purposes, including but not limited to uploading data recorded or maintained onto social media websites.
- E. Officers should refer members of the media or public seeking access to body worn recording system data to the City's responsible authority for compliance with MGDPA. Police Records staff will process the request in accordance with the MGDPA and other governing laws. Employees seeking access to body worn camera data for non-business reasons may make a request for it in the same manner as any member of the public. This provision shall not be construed, however, to permit any conduct that is unbecoming or otherwise prohibited.
- F. Body worn recording system data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

3-27.7 Department's Use of Data

- A. As a matter of practice, officers, supervisors and other assigned personnel should not access or review other officers' videos absent a complaint or concern about a policy or rule violation.
- B. Nothing in this policy limits or prohibits the use of body worn recording system data as evidence of misconduct or as a basis for discipline.



- C. Officers should contact their supervisors to discuss retaining and using body worn recording data 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 body worn recording system data with trainees for providing coaching and feedback on the trainee's performance.

3-27.8 Data Retention

- A. Evidentiary data should be retained for the period specified in the Records Retention Schedule. When recording data is subject to multiple retention periods, it shall be maintained for the longest applicable retention period
- B. Body worn recording system data that is classified as non-evidentiary, or becomes classified as non-evidentiary, should be retained for a minimum of 90 days following the date of capture. If information comes to light indicating that non-evidentiary data has evidentiary value or value for training, it may be reclassified and retained for a longer period.
- C. The department should maintain the following records and documents relating to body worn system use, which are classified as public data:
 - 1. The total number of body worn cameras owned or maintained by the City;
 - 2. A daily record of total number of body worn cameras actually deployed and used by officers;
 - 3. The total amount of recorded body worn data collected and stored; and
 - 4. This policy and the Records Retention Schedule.

3-27.9 Compliance

- A. Supervisors should monitor officers' activities for compliance with this policy. The failure to comply may subject individuals to disciplinary action. The unauthorized access to or disclosure of body worn camera system data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to MGDPA.

FORMS