

# City of Baxter

## Police Department Manual

Body Worn Cameras			
<b>POLICY TYPE:</b>	Operations	<b>POLICY NUMBER:</b>	334
<b>EFFECTIVE DATE:</b>	May 10, 2019	<b>REVISION DATE:</b>	
<b>REFERENCE:</b>	League of MN Cities Model Policy, MN SS(s) 626A.02, 626.8473, 13.82 & 13.85		
<b>PAGE(S):</b>	7	<b>AUTHORIZED BY: Chief James Exsted</b>	

### PURPOSE

The primary purpose of using body worn cameras (BWCs) is to capture evidence arising from police-citizen encounters. This policy will provide Baxter Police staff guidelines for the use, management, access, storage, and retrieval of Police BWCs and the media recorded related to their use.

### POLICY

The Baxter Police Department may equip officers with BWCs. This policy sets forth guidelines governing the use of BWCs and administering the data that results. Use of these audio-video recording devices is intended to enhance the department's ability to accurately document and collect matters for evidentiary purposes combined with the accurate documentation of interaction between police officers and the public.

### DEFINITIONS

- A. Body Worn Camera – A mobile electronic video recording device, issued by the Baxter Police Department to its officers, to be worn by officers during the performance of their official duties.
- B. Official Duties – For the purposes of this policy, Official Duties means the officer is on duty and performing authorized law enforcement services on behalf of this agency.
- C. Activate – Any process that causes the BWC to record, transmit or store audio-visual signals.

- D. MGDPA or Data Practices Act – The Minnesota Government Data Practices Act, MN Statutes Chapter 13.
- E. BWC Administrator – Typically the Assistant Chief or Chief of Police, or designee who assigns, tracks, and maintains the BWC equipment, oversees needed repairs to or replacement of equipment through vendors, authorizes user rights and access, and is the liaison with the BWC and systems vendor(s).
- F. Officer – Any licensed police officer issued a BWC by the department, working a uniformed assignment.
- G. Recorded Media – Audio and/or video signals recorded by the BWC digitally stored on the BWC device and/or storage system.
- H. Law Enforcement-Related Information - Information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- I. Evidentiary Value - 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 all allegations against a law enforcement agency or officer.
- J. Unintentionally Recorded Footage – 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 or administrative value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker room, restroom, or recordings made while officers were engaged in conversation of a non-business, personal nature with the expectation that the conversation was not being recorded.

## **BWC OPERATIONAL OBJECTIVES**

- A. To enhance officer safety.
- B. To document statements and events during an incident.
- C. To enhance the officer’s ability to document and review statements and actions for both internal reporting and courtroom preparation/presentation.
- D. To preserve visual and audio 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.
- G. To assist with the training and evaluation of officers.

## **SYSTEM OPERATIONS & OVERSIGHT**

- A. The Chief of Police and/or designee will be responsible for (MN SS 626.8473 & MN SS 13.825) the following:
  - a. Establishing procedures for the security, storage and maintenance of data and recordings.
  - b. Establishing procedures for accessing data and recordings.

- c. Establishing procedures for logging or auditing access.
- d. Establishing procedures for transferring, downloading, flagging, or marking recordings.
- e. Establishing and inventory of the following:
  - i. BWC devices owned or maintained by the Baxter Police Department.
  - ii. Daily record of the total number of BWC devices used by officers.
  - iii. Total amount of recorded audio and video data collected by the Baxter Police Department BWC devices.
- f. Preparing biennial audit required by MN SS 13.825, subdivision 9.
- g. Notifying the Bureau of Criminal Apprehension in a timely manner when new equipment is obtained by the Baxter Police Department that expands the type or scope of surveillance capabilities of the department's portable recorders.

## **GENERAL GUIDELINES FOR RECORDING**

- A. Officers who are issued a BWC will as part of their uniform wear and activate the BWC consistent with this policy. Inspection and general maintenance of the BWC shall be the responsibility of the officer to whom the BWC is assigned. Officers should periodically test the operation of the BWC to ensure it is functioning as designed. Any malfunction or failure of BWC device shall be immediately reported to a supervisor either in person or via Sharepoint.
- B. BWC should be activated to record in any of the following situations:
  - a. All enforcement and investigative contacts including stops and field interview situations.
  - b. Traffic stops including, but not limited to, traffic violations, stranded motorist assistance, and all crime interdiction stops.
  - c. Self-initiated activity when an officer would advise radio dispatchers and/or partners of the member's activity.
  - d. Any other circumstance that becomes adversarial after the initial contact when the device has not already been set into record mode.
- C. Officer Safety shall be the primary concern. 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 with detailed explanation. Officers should also try as soon as possible to activate the BWC as the circumstances safely allow.
- D. Officers have no affirmative duty to inform people that a BWC is being operated or that they are being recorded.
- E. 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 should likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. Officers should 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.

- F. If an officer realizes that a BWC was not activated as it should have been, the officer will try to immediately activate the BWC to record from that point forward.
- G. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy, notwithstanding the circumstances described in section K below.
- H. 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.
- I. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the Chief or the Chief's designee.
- J. Baxter Police Department BWC devices shall not be worn/utilized while police personnel are engaged in outside or non-duty employment.
- K. Recordings may be temporarily ceased, or the audio muted to exchange information with other officers, legal counsel, or the lens obstructed to avoid capturing images of undercover officers, informants, or citizens where based on training and experience, in the judgement of the officer, a recording would not be appropriate or consistent with this policy. The reason to cease and resume recording (or to mute audio or obstruct the lens) will be noted by the officer either verbally to the BWC recording or in a written report.

## **SPECIAL GUIDELINES FOR RECORDING**

Activation of the BWC is not required:

- A. During encounters with undercover officers or informants.
- B. In any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room, or break room.
- C. During medical care calls unless there is reason to believe the recording would document information having evidentiary value.
- D. Officers may activate their BWCs when dealing with individuals believed to be experiencing a mental health crisis or related event. BWCs shall be activated as necessary to document any use of force and the basis therefore and any other information having evidentiary value.
- E. Officers may use the BWC 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.

- F. During extended transport of persons beyond local facilities, officers may utilize the in-car video recording system, in lieu of their BWC, if the squad car is equipped with a rear-facing camera and that system is actively recording during the trip. The BWC should be reactivated upon arrival at such facility or if circumstances occur where the officer stops and interacts with the person being transported.
- G. When recording formal statements. Consideration shall be given to use other department issued devices when obtaining these statements.
- H. When not in service or actively on patrol.

## **SURREPTITIOUS RECORDINGS**

- A. Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission.
- B. Officers may surreptitiously record any conversation during a criminal investigation in which the officer reasonably believes that such a recording will be lawful and beneficial to the investigation.
- C. Officers shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

## **DOWNLOADING BWC RECORDINGS**

- A. **Recording Transfer.** Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to the appropriate storage system by the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume responsibility for transferring the data from it.
- B. **Downloading Procedures.** Downloading shall be in accordance with the BWC system utilized manufacture's recommendations, with the expectation that it will be conducted automatically at the end of the officer's shift, or earlier when necessitated by the need to access the recording.
- C. **Recording Documentation.** Officers should document in the police report for the incident involved that a BWC video recording was captured. Officers shall select and classify all recording with categories as provided with the system and should record the 8-digit related case file number and description.
- D. **Copying.** Copying for purposes other than forwarding to respective prosecution entities or designated legal representatives of the City and or Police Department is prohibited without the authorization of the Police Chief.

## **RECORDINGS WITH DATA SUBJECTS LIMITING DISCLOSURE UNDER MGDPA**

- A. All recordings should be reviewed by the Chief of Police, Assistant Chief of Police, or designee prior to public release. Recordings that are clearly offensive to common sensibilities should not be publicly released unless disclosure is required by law or order of the court.
- B. All recordings shall be considered private data or nonpublic and unless otherwise defined under Statue 13.825, subdivision 2.

## **ACCESS TO BWC RECORDINGS**

- A. Officers may access and view stored BWC video only when there is a business need for doing so. 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.
- B. 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 onto public and social media websites.
- C. Police Administration will develop a method based upon the BWC system utilized to record and document agency personnel's access to recordings to be able to audit accesses to recordings.
- D. Officers shall refer members of the media or public seeking access to BWC data to Police Chief, Assistant Chief, or designee, who will process the request in accordance with the MGDPA and other governing laws. 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.
- E. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

## **AGENCY USE OF RECORDINGS**

- A. At least once a month, supervisors will randomly review BWC recordings made by each officer to ensure the equipment is operating properly and officers are using the devices appropriately in accordance with policy, and to identify any performance areas in which additional training or guidance is required.
- B. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- C. 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 providing coaching and feedback on the trainee's performance.

- D. Recorded files may also be reviewed:
  - a. Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation, or criminal investigation.
  - b. Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
  - c. In compliance with the MGDPA, if permitted or required by the act, including pursuant to MN SS 13.82, subdivision 15.
- E. Review of recordings shall be documented within the system and state the purpose for accessing any recorded file.

## **DATA RETENTION**

- A. **Evidentiary Recordings.** Evidentiary data shall be retained for the period specified in the General Records Retention Schedule for Minnesota Cities.
- B. **Unintentional Recordings.** Unintentionally recorded footage will be designated with the appropriate category and have a default retention period of 1 day. They will be deleted automatically by the system software at the end of that time.
- C. **Non-evidentiary recordings.** Other non-evidentiary recordings will be designated with the appropriate category and have a default retention period of 180 days. They will be deleted automatically by the system at the end of that time.
- D. **Inventory.** The department shall maintain an inventory of BWC recordings.
- E. **Notification to Public of Retention Periods.** The department will post this policy on its website which is inclusive of the retention period information for BWC video data.