



**West Allis
Police Department
Standard
7.1.12**

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Body-Worn Cameras

Introduction

Body-worn cameras can help improve the high quality public service expected of police officers and promote the perceived legitimacy and sense of procedural justice that the community expects of the Department. Body-worn cameras can create a public record that allows the entire community to see an accurate chain of events. This Standard shall be in compliance with §165.87 and made public via the official West Allis Police Department web site (www.westalliswi.gov/police).

Purpose

The purpose of this Standard is to establish the use, maintenance and storage of body worn cameras (BWCs) and BWC data, the limitations the Department imposes on which officers may wear a BWC, and the limitations the Department imposes on situations, persons, or encounters that may be recorded by a BWC.

Application

This Standard applied to all Department members.

Definitions

Body-Worn Camera (BWC): A portable audio/video recording device which can be worn on the officer's body.

Record Subject: An individual recorded by a BWC to whom all the following apply: the individual is depicted in the recording or the individual's voice is audible; the individual's identity is known to law enforcement; the individual is not suspected of committing a crime or other violation of law in connection with the law enforcement officer's presence in the location that was recorded; the individual is not a law enforcement officer who was acting in an official capacity unless a crime or other violation of law has been committed against the law enforcement officer while the law enforcement officer was present at the location that was recorded.

Requester: Any person who requests inspection or copies of a record, except a committed or incarcerated person, unless the person requests inspection or copies of a record that contains specific references to that person or his/her minor children for whom he/she has not been denied physical placement and the record is otherwise accessible to the person by law.

Cloud Storage: A mode of data storage where the digital data is stored in computer servers located offsite and accessed via Internet. The storage is

typically maintained by a third party under contractual agreement.

Officer Involved Death: An incident that involves a death of an individual that results directly from an act of an omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off-duty, but performing activities that are in the scope of his/her law enforcement duties (§ 175.47(1)(c)).

Other Critical Incident: An incident involving a law enforcement officer that results in death or injury which may result in death to a person that is caused by a member's actions occurring while in police custody; or any incident that the Chief of Police or his designee declares a critical incident. An injury to a person as a result of a firearm discharge by a law enforcement officer, not resulting in death shall also be considered a critical incident.

Redaction: A process, conducted by specific authorized personnel, for censoring and/or obscuring a part of written, audio, and/or video media for legal, security, and/or privacy purposes.

Specific Procedure(s)

EQUIPMENT

Only Department authorized Body-Worn Cameras (BWCs) will be used by Department personnel. Personally owned BWCs are prohibited.

BWCs will be issued to the following personnel:

- Patrol Officers
- Patrol Sergeants
- School Liaison Officers
- SWAT Personnel
- Other personnel as determined by the Chief of Police or his/her designee.

Officers should not share their BWC with any other officers unless authorized by a Commanding Officer.

Charging units will be available for officers to recharge their BWC.

USE OF BODY WORN CAMERAS

If an officer is assigned a BWC, he/she must inspect and test it prior to each tour of duty to verify proper functioning. If an officer is assigned a camera, it must be worn at all times when an officer is on-duty, in uniform, and when the officer will be performing or likely be performing investigatory or enforcement duties. Officers acting in an undercover capacity are exempt from the requirements of using a BWC. Unless an exception which is listed below, the camera must be turned on as soon as practical and when safe to do so, once the member realizes he/she will be conducting a matter of investigatory nature or an enforcement action. This includes, but is not limited to:

- Self-initiated field investigatory stops of subjects and/or vehicles.
- Traffic crashes.
- Investigations.
- Calls for service.

All officers engaged in investigatory or enforcement action must activate their camera regardless of the number of other officers on the scene with cameras.

Cameras will also be required to be activated while processing prisoners (booking) and/or during prisoner transports. *However, BWCs do not have to be used while prisoners are inside a squad and a properly working rear seat camera is in operation.*

Juveniles will be recorded as an adult would.

There is no requirement that officers notify someone they are being recorded; however, officers must be aware that it may be beneficial to inform the other person(s) that a recording of the interaction is being made. If a person expresses a desire to know whether or not the officer is recording them, the officer shall respond truthfully.

Officers are authorized to use BWCs inside private dwellings under the following circumstances:

- 1) There is a valid search or arrest warrant.
- 2) The resident provides consent to enter the premises.
- 3) There is a legal exception permitting the police to enter the dwelling.

Once a BWC is activated, officers must continue to record until their involvement in the event ceases, their investigatory or enforcement duties related to the event cease, or an exception to the use of BWCs becomes present.

BWCs have the ability to be muted while video is still recording. Officers are allowed to temporarily mute audio on their BWC while discussing strategies/tactics among themselves, but, prior to doing so, they must announce the reason for muting. Additionally, they must restore audio once they are finished discussing strategies/tactics.

When the use of a BWC is related to an event which is documented in an incident report, the incident report must indicate that BWC footage was captured and the officer must briefly summarize what the footage is expected to contain.

EXCEPTIONS TO USE OF BODY WORN CAMERAS

Officers are permitted to keep BWCs off or turn BWCs off in the following situations:

- When interacting with victim of a sexual assault.
- When interacting with victim who is a child.
- When interacting with a victim or witness who requests not to be recorded while giving a statement.

- When interacting with someone who is at the hospital awaiting medical clearance unless enforcement or investigatory actions are likely, the likelihood of additional criminal activity or escape attempt is high, the subject is making voluntary statements, or the officer is gathering additional evidence (e.g. legal blood draws).
- When there are articulable reasonable circumstances present as to why the camera should be stopped.
- When interacting with a confidential informant.
- When authorized by a supervisor.
- When conducting a custodial interrogation or interview in a room which is equipped with recording equipment and the recording equipment is used in place of a body worn camera.
- When interacting with an undercover officer.
- When in the Milwaukee County Criminal Justice Facility or House of Corrections, as these facilities have cameras that record.

Officers are required to make a verbal announcement on the video recording anytime he/she plans to intentionally turn off a BWC prior to the completion of an event. The announcement must include the reason(s) why the BWC is being turned off.

When a BWC is not used or turned off pursuant to one of the listed exceptions, and the event is documented in an incident report, the incident report must clearly articulate why the BWC was not used or turned off.

PROHIBITED USE OF BODY WORN CAMERAS

Officers are prohibited from using BWCs in the following circumstances:

- Inside Department restrooms and/or locker rooms.
- Intentionally recording conversations and actions of fellow Department personnel (including outside law enforcement/public safety agency members) without their knowledge during non-enforcement activities.
- Recording off-duty and/or personal activity.
- While conducting strip searches or body cavity searches.

Nothing in this policy prohibits BWCs from being used for training purposes as long as all personnel involved in training are aware that BWCs are being used and the training does not violate any of the above listed prohibitions.

SYSTEM INTEGRITY

BWC footage is considered law enforcement sensitive material and, in certain circumstances, considered evidence. Therefore, original raw footage will always be securely maintained for the specified retention period. Copying and editing BWC for legitimate law enforcement purposes (such as making copies for discovery or redacting for release to the public under open records laws) are allowed by specifically authorized personnel (i.e. Administrative

Services Bureau Captain (BWC Administrator), Administrative Support Specialist – BWC, Forensics & Technical Services Unit, etc.).

While officers who use BWCs will have access to BWC footage for purposes of review, only Administration and/or their designee and the Forensics and Technical Services Unit will have access to the storage settings.

Department personnel are prohibited from viewing BWC footage while off-duty.

Axon is the current vendor of BWCs used by the West Allis Police Department. Axon offers two apps that can be used in conjunction with BWCs or cloud storage. Axon View is an app that connects to a BWC and allows the app user to review and categorize videos on the BWC (the app does not store data on the device with the app). Axon Capture is an app that allows the app user to capture photographs and video with their device and then upload the photographs/video to cloud storage (the app does store data on the device with the app).

Officers are permitted to use Axon View solely for the purpose of reviewing and categorizing footage on the BWC assigned to them. Officers may not perform functions, such as screen captures, with their devices that will save/store data on the device with the app.

Officers are not permitted to use Axon Capture.

DATA RETENTION

BWC data that is used in a criminal, civil or administrative proceeding may not be destroyed except: upon final disposition, including appeals; a determination from the court or hearing examiner that the data is no longer needed; or the data is no longer needed or an order from the court or hearing examiner.

BWC data that captures any of the following shall be retained until final disposition of any investigation, case or complaint to which the data pertain:

- An encounter that resulted in the death of any individual or alleged physical injury to an individual
- A encounter that resulted in a custodial arrest
- A search during an authorized temporary questioning as described in § 968.25 (i.e. Terry Stop)
- An encounter that included the use of force by a law enforcement officer (does not apply to the destruction of an injured wild animal)

All BWC data shall be retained for a minimum of 120 days after the date of recording.

A request for retention of BWC footage beyond 120 days may be made by: a law enforcement officer; a law enforcement agency; police and fire commission; a prosecutor; a defendant; or a court that determines that the BWC data has evidentiary value in a prosecution.

A person who wishes to make a preservation request, must submit an open records request to the Department within 120 days after the date of the recording.

CRITICAL INCIDENTS

Officers involved in a critical incident and/or officer involved death (refer to Definitions section above) should cease recording once it is determined the scene is secured. BWCs shall be given to an on-scene supervisor who will maintain chain of custody. The supervisor shall ensure that BWC recordings are uploaded and/or archived as directed by the designated investigators.

Involved officer(s) and/or witness officer(s) shall not review any BWC recording prior to providing a formal statement to the designated investigators unless specifically authorized by a WAPD supervisor.

Note: The assigned investigators may elect to provide the involved/witness officer(s) an opportunity to view BWC recordings prior to providing a formal statement, however, this will be at the investigators' discretion.

BWC DATA ACCESS & REDACTION

The Administrative Services Bureau (BWC Administrator) and/or designee is primarily responsible for reviewing/redacting BWC footage requested under open records laws or discovery demands. The Department shall maintain the privacy of a record subject who is a victim of a sensitive or violent crime or who is a minor and that access to data from a BWC that record such a record subject shall be provided only if the public interest in allowing access is so great as to outweigh public policy.

The presumption regarding privacy does not apply if a record subject who is a victim or sensitive or violent crime, or his/her next of kin if the record subject is deceased, does not object to granting access to the data. The presumption regarding the privacy of a record subject who is a minor does not apply if the parent or legal guardian does not object to granting access to the data.

It is the policy of the Department to maintain the privacy of a record subject who is in a location where the record subject has a reasonable expectation of privacy and that access to data from a BWC that record a record subject in such a location shall be provided only if the public interest in access is so great as to outweigh public policy. In that case, the record subject's face and anything else that would allow the record subject to be identified may be redacted.

The presumption of privacy does not apply if the record subject does not object to granting access to the data. If a requester believes that the Department has improperly made a decision to redact or deny access to BWC data, the requester may pursue remedies under §19.37(1).

Nothing in this section prohibits the release of BWC data under §175.47(5)(b) in relation to the investigation of officer involved critical incidents.

TRAINING

All sworn Department members will receive training on all content in this Standard to include any limitations the Department imposes on the use of BWCs and any limitations the Department imposes on situations, persons or encounters that may be recorded by a BWC.

Additionally, all employees (sworn and non-sworn) that use, maintain, store or release BWC data will also receive training on all content in this Standard, the limitation the Department imposes on the use of BWCs and any limitations the Department imposes on situations, persons or encounters that may be recorded by a BWC.

The Training Unit will coordinate all required training regarding the use of BWCs.

MAINTENANCE

The Training Unit is responsible for the general maintenance of the BWCs. If personnel discover their BWC has become damaged or is malfunctioning, he/she shall stop wearing it and report this to a supervisor as soon as practical. The supervisor shall direct the officer to notify the Training Unit before the end of his/her tour of duty.