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|  | <b>Whitewater Police Department Policy Manual</b> |                      |
|   | Text Name: <b>CAM</b>                             |                      |
|   | Title: <b>Body Worn Camera Guidelines</b>         |                      |
| Issue Date: 02/26/2013  | Last Revision: 05/02/2024                         | Reviewed: 05/02/2024 |
| Special Instructions:   | WILEAG Standard: 6.1.9, 10.2.2                    |                      |

I. PURPOSE

The purpose of this policy is to provide guidelines for the use of mobile audio/video recording equipment by members of this department while in the performance of their duties. Mobile audio/video recording equipment include all recording systems whether body worn, handheld, or integrated into portable equipment. This policy does not apply to authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

II. POLICY

The Whitewater Police Department will provide all sworn members with access to mobile audio/video recording equipment, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department, via the use of mobile audio/video recording equipment by capturing the contacts between members of the Department and the public. All sworn officers on patrol will wear a department issued body worn camera at all times unless unavailable.

III. DISCUSSION

IV. DEFINITIONS

- A. Use of Force Incident: Any amount of force beyond cooperative handcuffing used by an officer to control an uncooperative person.
- B. Body Worn Camera: A portable audio and/or video recording device which can be worn on an officer's body.
- C. Mobile Audio/Video Recording Equipment: Portable, wireless, electronic devices designed for capturing audio and/or video recordings. This includes body worn cameras.
- D. Member Privacy: All recordings made by members on a Whitewater Police Department-issued device, and any recording made while acting in an official capacity of this department, regardless of ownership of the device, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

V. PROCEDURE

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- A. Care and use of the mobile audio/video recording equipment is the responsibility of the officer assigned to that equipment and shall be used in conformity with police department policy and training.
- B. Prior to each shift, officers shall determine whether their recording equipment is working properly and shall report any problems to the Shift Supervisor as soon as practical.
- C. Body worn cameras should generally be worn on or near the officer's head and worn on the officer's strong side.
  - 1. The purpose is to put the camera in the best position to record as much audio/video information as possible.
  - 2. Officers are not expected to jeopardize their safety in exchange for obtaining better audio/video recordings.
  - 3. The exception to this directive is that it may not be feasible for officers working an assignment with the Walworth County Mobile Field Force Team (MFF) or bike patrol to mount the camera near their head. In those circumstances, officers should mount the camera near their strong-side shoulder on the epaulette of their uniform.
- D. The Axon unit shall be turned on prior to making contact with the public. Unless unable to do so, officers should activate their Mobile audio/video recording equipment when they receive the call for service or while enroute to a call. Officers shall record their interactions while in direct or indirect (telephonic) contact with the public. Examples include but are not limited to:
  - 1. All citizen contacts.
  - 2. All officer/subject contacts during traffic stops, stranded motorist assistance and all interdiction stops.
  - 3. All officer/subject contacts during an arrest including approach, custody, statements, transportation, police department booking process and release.
  - 4. All officer/subject contacts of arrested subjects taken to a county lock-up facility. Recordings will cease upon entry to these facilities unless approved by facility staff.
  - 5. Any other contacts with persons under circumstances that lead the officer to believe that the specifics of the contact may need to be retrieved or reviewed.
  - 6. When responding "emergent" to any call.
  - 7. All official telephonic conversations.

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- E. Continuous, non-stop recording during all official citizen contacts or incidents of an enforcement nature is required.
  - 1. The recording of confidential informants (CI) is the only exception to this rule. If a person, during a citizen contact or enforcement action, wants to give an officer confidential information, the initial recording shall be stopped. The officer shall then turn the camera back on to record the CI information. If the officer transitions back to the initial investigation, the recording shall be stopped and restarted again for purposes of recording the initial investigation or contact information.
  - 2. The recording dealing with CI information shall be categorized, labeled "CONFIDENTIAL CI DATA," and the Detective Lieutenant shall be notified.
- F. At no time is an Officer/CSO expected to jeopardize his/her safety in order to activate the mobile audio/video recording equipment or change the recording media. However, the recorder should be activated in situations described above (D-E) as soon as reasonably practicable.
- G. The equipment may be deactivated during non-enforcement activities such as:
  - 1. Officer-to-officer conversations about items such as charging issues and other general conversations;
  - 2. Protecting accident scenes from other vehicular traffic;
  - 3. Conducting extended traffic control;
  - 4. Awaiting a tow truck;
  - 5. Rescue calls not of enforcement nature;
  - 6. While at a medical treatment facility when the subject is not interactive for long periods of time (i.e. during Emergency Detention and the subject is sleeping).
  - 7. Other routine non-citizen contact incidents.
- H. Many portable recorders, including mobile audio/video recording equipment, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.
- I. Officers shall document in all pertinent reports whenever recordings are made during an incident in question.
- J. Each officer equipped with a body worn camera shall record enforcement contacts they are participating in. If multiple officers are involved in an enforcement contact, all officers will record the contact. Officers are encouraged to inform their supervisors of any recorded sequences that may be of value for training purposes.

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- K. Officers shall not intentionally alter recordings in any way.
- L. Officers shall not use mobile audio/video recording equipment to record personal conversations, i.e. disciplinary actions, administrative discussions, union discussions, supervisor's directives, talks between employees, etc.
- M. Officers are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings recorded while on-duty or while acting in their official capacity.
- N. Officers are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders.
- O. Officers shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.
- P. Recordings shall not be used by any officer for the purpose of embarrassment, harassment or ridicule.
- Q. Use of body worn cameras or recording equipment is for on-duty, official police business only. Officers are reminded of the restrictions in Wis. Stat. §175.22 prohibiting audio or video recording in locker rooms. As such, only items pertaining to these accidental recordings may be deleted by the Patrol Captain, Administrative (Admin) Captain, or the Chief of Police prior to the 127-day retention period.

### VI. RECORDING CONTROL AND MANAGEMENT

- A. Recordings are stored using Axon's Evidence.com secure online cloud storage system. This system requires officers to title and categorize their video files. Retention periods for the recordings are linked to the type of incident category entered by the officer in Evidence.com. The Admin Captain will ensure the retention periods are updated as needed.
  - 1. Officers shall title (using agency call for service number, using a dash instead of a period, if no case is created) and categorize all videos in which a case is created, or a municipal citation issued. Per Walworth County DA request, videos should be titled and saved with agency abbreviation, call for service number, defendant first and last name, Officer rank and last name, content of digital evidence and sequence (i.e. WWPD 22-000001 – John Doe – Officer Smith – Body Cam 1 of 4).
    - a. If department personnel assist another agency with a criminal investigation, body camera video will be titled the same as in subsection (1), but adding the agency being assisted at the end of the title (i.e. WWPD 22-000001 – John Doe – Officer Smith – Body Cam 1 of 4 – Assisting WCSO).

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2. Officers shall also categorize any video depicting any of the following situations even if it is not related to a case or municipal citation. If these recordings are not related to a case or a citation, they should be categorized as “Required by Policy” in evidence.com which will retain the recordings until manually deleted. These recordings must be retained until final disposition of the specific incident.
    - a. A situation the officer believes will likely ~~to~~ be subject to an open records request, i.e. possible citizen complaints, high profile or political concerns, etc.
    - b. An encounter that resulted in the actual or alleged physical injury or death of a person.
    - c. An encounter resulting in a custodial arrest.
    - d. A temporary questioning (“Terry Stop”) search.
    - e. An encounter including use of force by a law enforcement officer (not including the dispatching of sick or injured animals).
  3. All other non-categorized videos will be retained for 127 days.
  4. Officers will add the word “CAUTION” at the beginning of the title of any video that depicts an individual’s intimate body parts either in person, or on an electronic device (i.e. cell phone, computer, etc.).
  5. The link to video recordings can be shared with approved agencies such as the City Attorney and County DA’s Offices or other approved personnel through Evidence.com or Cerberus. Support Services staff can also copy any necessary videos to a disk as needed.
  6. All videos will have a retention period ranging from 127 days to “until manually deleted.”
  7. Support Services staff will transmit all criminal video evidence which will accompany criminal charges forwarded to the District Attorney’s Offices.
- B. Recordings are subject to existing State of Wisconsin open records laws.
1. Minors and Victims of Sensitive Crimes
    - a. The policy of the Department is to maintain the privacy of a record subject who is a victim of a sensitive or violent crime, or who is a minor. Access to data from a body-worn camera used to record such a record subject shall be provided only if the public interest in allowing access is so great as to outweigh the privacy of the record subject.

- 1) In that case, the record subject's face and anything else that would allow the record subject to be identified may be redacted using pixelization or another method of redaction.
  - 2) The presumption under this subsection regarding the privacy of a record subject who is a victim of a sensitive or violent crime does not apply if the record subject, or his or her kin if the record subject is deceased, does not object to granting access to the data.
  - 3) The presumption under this subsection regarding the privacy of a record subject who is a minor does not apply if the parent or legal guardian of the record subject does not object to granting access to the data.
2. Expectation of Privacy
- a. The policy of the Department is to maintain the privacy of a record subject who is in a location where the record subject has a reasonable expectation of privacy. Access to data from a body-worn camera used to record such a record subject shall be provided only if the public interest in allowing access is so great as to outweigh the privacy of the record subject.
    - 1) In that case, the record subject's face and anything else that would allow the record subject to be identified may be redacted using pixelization or another method of redaction.
    - 2) The presumption under this subsection does not apply if the record subject does not object to granting access to the data.
3. If the requester of a recording believes that an authority has improperly made a decision to redact or deny access to data, the requester may pursue remedies under Wis. Stat. §19.37(1).
4. For purposes of requests under Wis. Stat. §19.35(1) for access to data from a body camera used by a law enforcement agency, the law enforcement agency is the legal custodian of the record, and if any other authority has custody of any such data, that authority is not the legal custodian of that data. If any other authority receives a request under Wis. Stat. §19.35(1) for that data, that authority shall deny any portion of the request that relates to that data.
5. A reproduction fee for the duplication of recordings will be established by the City of Whitewater.
- C. Recordings may be shown to Whitewater Police Department employees for training, quality assurance and evaluation purposes.

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1. Recordings may be shown to persons other than Whitewater Police Department employees provided prior approval is obtained from the Chief of Police or the Chief of Police's designee.
2. Recordings will be provided to the respective District Attorney's Offices (either via disk or via a link through Evidence.com or Cerberus) for purpose of evidence and upon mutual aid requests from other law enforcement agencies.

### D. Officer Review of Recordings

1. In general, officers are encouraged to write reports prior to viewing body-worn camera footage. This technique aids officers in documenting their recollection of their perceptions at the time of the incident.
2. With the exception of officer-involved critical incidents, officers may review body-worn camera footage as an aid in remembering details of an event for the purposes of documentation in official written reports.
3. In the case of an officer-involved critical incident, officers shall not review body-worn camera footage without prior approval of the administration or the investigating agency.

### E. CSO Use of On-Officer Cameras

1. CSOs will follow the same procedure as outlined above for use and downloading video evidence.
2. CSOs will be limited to viewing only those video files that they have created and will not view officer videos unless authorized by a member of Administration.
3. CSOs will activate their on-officer cameras whenever they are in the performance of their official duties including but not limited to:
  - a. Parking enforcement
  - b. Official citizen contact
  - c. Any other duties where video evidence might be needed

## VII. Training

- A. All personnel who utilize the mobile audio/video recording equipment will receive training on the use of the equipment, related policy, and data retention requirements. Policy review and corresponding training will take place prior to the employee using the equipment.
- B. Training to include comprehensive policy review, data retention requirements, and data release requirements, will be provided to all personnel who manage the use,

maintenance, storage, redaction, release, or sharing of the mobile audio/video recordings.

VIII. Internal Review and Publication

- A. Department practices related to body-worn cameras will be reviewed concurrently with the three-year review of the Body Worn Camera Guidelines policy to ensure compliance with the comprehensive policy, data retention requirements, and data release requirements.
- B. The Department will make the Body Worn Camera Guidelines policy available to the public by posting an updated version of the policy to the City website.