

**MINNESOTA DEPARTMENT OF NATURAL RESOURCES**  
**DIVISION OF ENFORCEMENT**  
**DIRECTIVE**

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**DIRECTIVE NUMBER: E-06-23**

**SUBJECT: BODY WORN CAMERAS (BWC)**

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EFFECTIVE DATE: 10/09/2023

SPECIAL INSTRUCTIONS: Replaces E-06-22

APPENDIX: None

REFERENCE: Minn. Stat. Chapter 13, 13.825 Subd. 9, 10, 15; Minn. Stat. 626.8473,

Subd. 3 and 8; Minn. Stat. 609.066, Subd. 1, 2; MN DNR Op. Order 115 (Records

Management); MN DNR Op. Order 75 (MN DNR Data Practices Manual); Directive O-2

DISTRIBUTION: All Conservation Officers

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This directive is for Division use only and does not modify or supersede any law and should not apply to any criminal or civil proceeding except civil proceedings related to departmental administrative action. This directive should not be viewed as creating a higher standard of safety or care in any evidentiary sense. Compliance with this directive is required and any violations of this directive may form the basis for departmental administrative action.

**I. POLICY**

The policy of the MN DNR Enforcement Division is to utilize audio and video recording devices in an accurate and efficient manner in order to collect evidence to be used in the prosecution of those who violate law. In addition, the recordings are used to document work performed, address allegations of misconduct, and to collect training materials.

**II. DEFINITIONS**

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**Activation:** Any process that causes the BWC system to record video and audio data. Activation will be done manually. Activation can only occur when the BWC is already powered on.

**Body Worn Camera (BWC):** Portable audio-video recording equipment designed to be worn on a person.

**BWC Uploading:** The act of transferring recorded data from the BWC to the storage server.

**Critical Incident:** For purposes of this directive, a critical incident is an incident occurring in the line of duty involving the use of deadly force by or against conservation officers, death or great bodily harm incurred by conservation officers, or an action by a conservation officer that causes or is intended to cause death or great bodily harm.

**Deadly Force:** Force which the officer uses with the purpose of causing, or which the officer should reasonably know creates a substantial risk of causing, death or great bodily harm. The intentional discharge of a firearm, other than a firearm loaded with less lethal munitions and used by an officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.

**Deactivation:** Any process that causes the BWC system to stop recording. Deactivation can be done manually or can occur unintentionally.

**Evidentiary Value:** The information may be useful 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.

**Great Bodily Harm:** Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss of impairment of the function of any bodily member or organ or other serious bodily harm.

**Regulatory Checks:** The act of checking a person for a game or fish license required by law.

**Stops:** Preventing a person, vehicle, or watercraft from freely leaving due to a violation or investigation of a law, rule, commissioner's order, or water-surface use ordinance.

**Unintentionally Recorded Footage:** A video recording that results from an officer's inadvertence 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 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.

### III. USE REQUIREMENTS

#### A. General Use

1. Officers shall have their BWC powered on during their work day when not working in their office. Officers shall activate their Enforcement Division-issued Body Worn Cameras (BWCs) when anticipating that they will be involved in, become involved in, or witness other officers of this Division involved in:
  - a. All stops, pursuits, emergency vehicle operations, assistance to other law enforcement agencies, transports of individuals in custody, and all other investigative and enforcement-related interactions with the public that involve a violation of law.
  - b. Regulatory checks when there is a known or suspected violation prior to the contact.
  - c. When actively involved with crowd control/civil unrest/special response team callout.
  - d. When directed by a supervisor.
2. Officers may use discretion in activating their BWC during interactions with the public that are confrontational but not a suspected or actual violation of law.
3. Exceptions:
  - a. When impossible due to an unusually sudden and/or dangerous event in which a reasonable officer under similar circumstances would be unable to activate the BWC. In this event, the officer shall immediately notify a supervisor. The officer shall document the circumstances and reason for not activating their BWC in their ICR.
  - b. When there was a recording equipment failure properly reported pursuant to Section III for which there is no immediate remedy.
  - c. When the officer is acting as a crew or observer aboard any aircraft.
  - d. When assigned to the Special Investigations Unit (SIU) and working in a covert capacity where the wearing of a BWC would jeopardize the safety of the covert officer.
  - e. When actively involved as a plain clothes officer or working with an undercover investigator and having obtained prior permission from their supervisor.
  - f. When attending an event requiring the wearing of a Class A uniform and the Class A jacket is being worn.
  - g. While attending training unless otherwise directed by a supervisor.
4. Once activated, the BWC shall 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.
5. If the recording is discontinued while an investigation, response, or incident is ongoing, officers shall state the reasons for ceasing the recording on camera before deactivating the BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
6. Officers may mute the audio on their BWC while discussing sensitive tactical information or during coaching conversations between a field training officer and their conservation officer candidate. Prior to muting the audio the officer must state the reason on camera.
7. Officers shall not intentionally turn off, block, or otherwise disable the BWC's audio or visual recording functionality to defeat the purposes of this directive.

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8. Live streaming of another officer's BWC shall be used only in the following cases and the officer must be notified expeditiously of the activation:
  - a. When there's a clearly established law enforcement purpose, or to determine the BWC user's location and status if there is a legitimate concern for their safety, or the safety of another individual. The reasons for remote activation shall be documented in an incident report. Additional justification is necessary if a BWC is remotely activated without an audible warning being provided to the BWC user.
  - b. For demonstration, training, or testing purposes, but only with the BWC user's permission.
  - c. Remote activation shall not be used as a supervision tool or as a means for surreptitious monitoring.
9. Officers assigned a portable recording system will wear and operate the system in compliance with this policy while performing law enforcement activities under the command and control of another chief law enforcement officer or deferral law enforcement official.

#### **B. Wearing of BWCs**

BWCs shall be worn consistent with training and in a conspicuous manner that maximizes the view of the camera.

1. The BWC must be mounted with a Division-approved mount and positioned in a manner to facilitate the optimal recording field of view. This will normally be on the outermost garment, whether shirt or jacket, with an unobstructed field of view.
2. The BWC must be worn at chest level.

#### **C. Evidentiary Value**

Whenever a BWC recording documents an arrest, investigation or other significant incident, the recording constitutes evidence and the legal rules of evidence apply. As such, care must be taken toward documenting and maintaining a chain of custody and ensuring the integrity of those recordings.

Altering, erasing, or destroying any recording made with a peace officer's portable recording system or data and metadata related to the recording prior to the expiration of the applicable retention period defined under section 13.825 or section 626.8473 is prohibited.

## **IV. RESPONSIBILITIES**

#### **A. Officers**

1. The following responsibilities apply to BWC:
  - a. Record all law enforcement stops, pursuits, emergency vehicle operations, and all other investigative and law enforcement-related interactions with the public.
  - b. Record statements from persons believed to be victims of and witnesses to crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect. This does not apply to a witness who wishes to remain anonymous.

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- c. Officers shall use their BWCs to record the transportation of suspects, witnesses, victims, complainants, or public assists in their squad.
- d. Inform those who ask that recording equipment is in use.
- e. Inspect the BWC equipment at the start of each work day to ensure the camera displays “ready” and no error lights are displayed.
  - i. Report any defect in condition or performance in writing to a supervisor immediately. Obtain a spare functioning BWC as soon as feasible.
  - ii. Officers shall periodically check recordings to ensure that the time/date/name/badge are accurate and that the camera and microphone are working properly. Notify a supervisor immediately if issues are discovered.
- f. Ensure that BWC video is categorized correctly with the system. Categorization is critical for proper data retention. If an officer needs to assign a three year or seven year retention to a video, the ICR number assigned to the event must be entered.
- g. Under no circumstances shall an officer personally sell, transfer, share access, or distribute copies of BWC recordings except as provided under III, A, 3.
- h. Subpoenas, data practices requests, or other requests for recordings outside the scope of normal investigative processes shall be referred to the Division’s data practices designee.

2. BWC

- a. Axon BWC:
  - i. **Charging:** The BWC charge shall be properly maintained to ensure functionality. The BWC must be charged with either:
    - An Axon-provided USB-C cable. Other branded charging cables shall not be used. The Axon USB-C cable facilitates the ability to charge the BWC while it is being worn.
    - An Axon-provided docking station.
  - ii. **Upload:** When a BWC event has concluded and the video recording is stopped, it shall be properly categorized (see below) and immediately selected for upload through the Axon View XL app or as soon as practical.

90 Day – Unintentional recorded footage (see definition)

One Year – this is the default for all recordings and does not require any further action from the officer. This includes, but not limited to:

- Game and Fish violations
- Recreational vehicle violations
- Trespass

Three Year – this includes, but not limited to:

- DUIs
- BUIs
- HUIs
- Wetland Conservation Act Violations
- Formal Complaints

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- Cases, that a reasonable officer is inclined to believe, may take longer than 1 year to resolve

Seven Year – this includes, but not limited to:

- Critical Incidents
- Civil Unrest
- Litigation Holds
- Use of Force/RTR
- Pursuits

Indefinite – this includes, but not limited to:

- Use of Deadly Force

- iii. **Firmware Updates:** The BWC must be connected to the laptop computer with the supplied USB-C cable and synced with Axon View XL (or docked in a docking station) at least every 30 days (monthly) to ensure firmware is up to date.

### 3. Reviewing of BWC Recordings

The video storage platform has integrated auditing and viewing. All access and attempts to access video are tracked at the individual level. This directive serves as written authorization, as required by Minn. Stat. § 13.825, to access video under the following circumstances:

- a. All access shall be for law enforcement purposes only.
- b. Supervisors, legal counsel, and the data practices designee may access BWC data in order to complete their duties. Bi-annual internal supervisor audits and reviews are mandatory to ensure compliance with this directive and law (Minn. Stat. 626.8473).
- c. Special Investigation Unit (SIU) investigators may access BWC data for case investigation purposes with prior approval from SIU manager.
- d. With approval from the Director, for incident review purposes.
- e. After an adequate timeframe has concluded from an investigation or court date, BWC data may be used for training purposes when a BWC Internal Request Form is completed with signed approval from a supervisor.
- f. When an officer receives a request for copies or review from other law enforcement agencies, it must be in writing and directed to the Division data practices designee for approval.
- g. Officers are only allowed to access their own BWC data or view other officers' footage for case investigation, report writing, court preparation, or other law enforcement related purposes.
- h. In a critical incident, officers will follow direction outlined in directive O-2.
- i. Data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.
- j. Authorized support staff may download copies of case files for prosecutors, however viewing the data requires additional approval from the data practices coordinator.

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- k. In compliance with data practices laws, including pursuant to Minn. Stat. § 13.82, Subd. 15 (public benefit data).

**B. Data Practices Designee**

1. Coordinate and respond to data requests regarding MN DNR Enforcement Division BWC recordings.
2. Review all recordings prior to public release to ensure compliance with Minnesota data practices laws.
3. Prior to releasing video, notify involved officers of data request and upcoming release date.
4. Arrange for an independent biennial audit of BWC data and ensure results are shared as required by Minn. Stat. § 13.825, subd. 9.
5. Arrange and conduct internal audits of BWC data twice annually to ensure officers are in compliance with data laws and retention policies.
6. Maintain the following public BWC data as required by Minn. Stat. § 13.825, subd. 5:
  - a. The total number of devices owned by the Division;
  - b. A daily record of the total number of devices actually deployed and used;
  - c. The policies and procedures for use of portable recording systems; and
  - d. The total amount of recorded audio and video data collected by the portable recording system and maintained by the Division, the Division's retention schedule, and the Division's procedures for destruction of the data.
7. Ensure that the BCA is notified within ten (10) days of acquiring new BWC technology, as required by Minn. Stat. § 13.825, subd. 10
8. In instances where an officer has used deadly force, as defined by Minn. Stat. § 609.066, subd. 1, against an individual and the individual has died as a result, the Division will allow the representative of a decedent an opportunity to view BWC video within five (5) days of the incident or a request. The disclosure must be in accordance with the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13, which may require redaction.

**V. USE AND ACCESS REGARDING BWC VIDEO**

- A. BWC recordings generated in connection with an officer's duties are the exclusive property of the MN DNR Enforcement Division and shall not be available for external use, except as provided in this directive and under state law.
- B. BWC recordings are subject to the Minnesota Data Practices Act (Minn. Stat. Chapter 13). BWCs are also specifically subject to Minn. Stat. § 13.825 and Minn. Stat. § 626.8473.
- C. Officers are prohibited from using Division-issued BWCs for personal use or while working other jobs outside the MN DNR Enforcement Division.
- D. Officers are prohibited from using personal recording devices to record law enforcement contacts while on duty.
- E. Officers are prohibited from retaining, duplicating, or distributing any recordings made except those needed by authorized persons for business reasons as specified in other sections of this directive.

## **VI. RETENTION OF BWC RECORDINGS**

- A. All BWC recordings, including unintentionally recorded footage, shall be kept in accordance with Chapter 13 and the MN DNR's records retention schedule.
- B. Upon written request, the Enforcement Division will retain the relevant BWC video beyond the normal retention period and up to 180 additional days. At that time, the Enforcement Division will notify the subject that the data will be destroyed unless a new request is made.

**By Authority of:**

**COL Rodmen Smith  
Division Director  
Division of  
Enforcement**