

## **Breitung Police Department Body Worn Camera Policy (BWC)**

The policy written is the Breitung Police department guidelines for usage of the Body Worn Camera (BWC) as defined by statute. This mandatory policy is written for all Breitung Police Officers. This policy is written in cohesion with the Minnesota statute 626.8473 sub. 3.

### **Definitions in Policy**

**Body Worn Camera (BWC)** is a portable recording system that is worn by Breitung Officers during the commission of their duty. The device is defined by state statute 13.825 subdivision 1b (1) "portable recording system" means a device worn by a peace officer that is capable of both video and audio recording of the officer's activities and interactions with others or collecting digital multimedia evidence as part of an investigation.

**MN State Statute:** Minnesota laws that govern our society and provide guidelines and basis for Breitung Police Department policy.

**Adversarial Person/contact:** It is defined as the contact/person becomes hostile towards the law enforcement parties present. This can be expressed both verbally by swearing, yelling, challenging, threatening, or arguing. This person may demand to be recorded or start to record the officer.

**Retention of Data:** The procedure and the length of time the recorded data will be kept before being disposed of per state statute guidelines.

**Activation:** The process of turning the record function of the BWC on during duty and incidents.

**Evidentiary Value:** Data that is evidence in the incident of the recording.

### **Activation (Mandatory)**

It shall be the duty of the Breitung Officers to wear BWCs on duty. There are times in which multiple officers will be deployed at one time. (Example 4<sup>th</sup> of July) If this is the case, officers should respond to calls with an officer equipped with a body camera (BWC) if at all possible.

It is the policy of the department that the primary unit (officer on regular patrol shift) on a call for service shall be equipped with a BWC while on shift. The officer shall respond to every call for service with the BWC turned on. This includes emergency calls, general calls for service, and traffic stops, search warrants, arrests, and all official law enforcement related encounters.

Casual encounters with the general public not related to a call for service will be recorded at the discretion of the officer.

During criminal investigations interviewing involved parties.

All recordings are property of the Breitung Police Department. While recording, the Officers have no reasonable expectation of privacy. Officers are not required to notify the general public that the BWC are recording and active. If parties present on the scene ask if the BWC is active,

Breitung Officers will acknowledge that the fact however. The BWC will continue to record until the incident has concluded and the Officer(s) clear the scene. Officers should activate their BWC immediately upon arrival of a call for service. If their safety were to be in danger in an effort to activate the BWC, then the activation should occur as soon as practical. Documentation of facts shall be included in the police report narrative explaining this circumstance.

The BWC shall be active during a police/citizen contact that force is used or the person is becoming adversarial.

### **Prohibited Usage**

Breitung Officers will only use department issued BWCs while recording video during the commission of their duties. Personally owned BWCs are prohibited from use.

Breitung Officers shall not record other Breitung Officers during non-duty activities. This includes breaks, meals, private communications, or in area with privacy (bathroom, locker room/shower). The only exception is an official criminal or administrative investigation.

Posting the BWC video to social media for personal usage.

Making copies of video and data for private usage and dissemination when it is not law enforcement related.

In a court of law unless authorized by the judge.

No Officer is allowed to alter, edit, erase, or change the BWC recordings without authorization from the Chief of Police.

### **Deactivating the BWC Procedures**

If the call for service is long running that the battery is about to deactivate the BWC, the Officer can shut the BWC off. This shall be documented and BWC should be activated as soon as practical to do so.

When the public parties involved request a stop in recording based on a privacy issue. This instance will be evaluated by the Officer on scene. As soon as the privacy concern has ended, the BWC shall be reactivated.

The BWC may be deactivated while on scene and the incident has ended or the situation does not have any substance of evidentiary value.

Breitung Officer are able to pause/deactivate recording to exchange information amongst other law enforcement personnel or while speaking to legal counsel. The camera lens may also be obstructed by Breitung Officers in the event of it capturing informants, undercover officers, or other citizens. This covering of the lens shall be documented on scene as soon as practical.

If the supervisor on scene authorizes the BWC can be deactivated.

In the event of a use of force situation that involves significant injury or an officer involved shooting, the BWC will remain active until the supervisor authorizes its deactivation.

## **Dissemination of data**

- A. Minnesota state statute 13.825 subdivision 2 (2) states the guidelines for BWC recordings to be released as public:

The documentation of discharging a firearm on duty. An exception is firearms training or dispatching of an animal.

Use of force by a peace officer that results in substantial bodily harm, great bodily harm, or death.

The data is public if a subject of the data requests it be made accessible to the public, except that, if practicable, (i) data on a subject who is not a peace officer and who does not consent to the release must be redacted, and (ii) data on a peace officer whose identity is protected under section 13.82, subdivision 17, clause (a), must be redacted.

When documented as part of an investigation of discipline regarding department personnel.

- B. It is the policy of the department when dissemination of the data is requested that it is released in compliance with Minnesota state statute 13.82 subdivision 17 that there are protections:

Protection of identities. A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency shall withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

- (a) when access to the data would reveal the identity of an undercover law enforcement officer, as provided in section 13.43, subdivision 5;
- (b) when access to the data would reveal the identity of a victim or alleged victim of criminal sexual conduct, sexual extortion, or sex trafficking under section 609.322, 609.341 to 609.3451, 609.3458, or 617.246, subdivision 2;
- (c) when access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant;
- (d) when access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, unless the agency reasonably determines that revealing the identity of the victim or witness would not threaten the personal safety or property of the individual;
- (e) when access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred;
- (f) when access to the data would reveal the identity of a person who placed a call to a 911 system or the identity or telephone number of a service subscriber whose phone is used to place a call to the 911 system and: (1) the agency determines that revealing the identity may threaten the personal safety or property of any person; or (2) the object of the call is to receive help in a

mental health emergency. For the purposes of this paragraph, a voice recording of a call placed to the 911 system is deemed to reveal the identity of the caller;

(g) when access to the data would reveal the identity of a juvenile witness and the agency reasonably determines that the subject matter of the investigation justifies protecting the identity of the witness; or

(h) when access to the data would reveal the identity of a mandated reporter under section 60A.952, subdivision 2, 609.456, or 626.557 or chapter 260E.

Data concerning individuals whose identities are protected by this subdivision are private data about those individuals. Law enforcement agencies shall establish procedures to acquire the data and make the decisions necessary to protect the identity of individuals described in clauses (c), (d), (f), and (g).

C. The Breitung Police Department may make data public that is otherwise private in compliance with state statute MN 13.82 subdivision. 15. Public benefit data. Any law enforcement agency may make any data classified as confidential or protected nonpublic pursuant to subdivision 7 or as private or nonpublic under section 13.825 or 626.19 accessible to any person, agency, or the public if the agency determines that the access will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest.

### **Video Retention Records**

In compliance with state statute 13.825 subdivision 3, the Breitung Police department shall have guidelines for retention of data.

Portable recording system data that are not active or inactive criminal investigative data and are not described in paragraph (b) must be maintained for at least 90 days and destroyed according to the agency's records retention schedule.

Portable recording system data must be maintained for at least one year and destroyed according to the agency's records retention schedule approved pursuant to section 138.17 if:

(1) the data document (i) the discharge of a firearm by a peace officer in the course of duty if a notice is required under section 626.553, subdivision 2, or (ii) the use of force by a peace officer that results in substantial bodily harm; or

(2) a formal complaint is made against a peace officer related to the incident.

(c) If a subject of the data submits a written request to the law enforcement agency to retain the recording beyond the applicable retention period for possible evidentiary or exculpatory use related to the circumstances under which the data were collected, the law enforcement agency shall retain the recording for an additional time period requested by the subject of up to 180 days and notify the requester that the recording will then be destroyed unless a new request is made under this paragraph.

(d) Notwithstanding paragraph (b) or (c), a government entity may retain a recording for as long as reasonably necessary for possible evidentiary or exculpatory use related to the incident with respect to which the data were collected.

The video and evidentiary material recorded will be docked on the docking station at the police department at the end of each shift.

Officers shall not delete, edit or change the recordings on the BWC without permission from Chief of Police.

The videos and data will be stored on Watchguard servers.

### **Discipline**

Any Breitung Police Officer who violates the guidelines set forth in this policy can be subject to discipline resulting in a verbal warning, written warning, suspension, and up to termination.

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