

Breitung Police Department Body Worn Camera Policy (BWC)

This written policy sets forth the Breitung Police Department guidelines for usage of the Body Worn Camera (BWC) as defined below and the administration of the data that results. This policy is written for all Breitung Police Officers. Compliance with these guidelines is mandatory, but it is recognized that officers must also attend to other primary duties and the safety of all concerned. This policy is written in cohesion with the Minn. Stat. 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 Minn. Stat. 13.825 subdivision 1b (1) 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.

Adversarial: A contact that becomes hostile or confrontational towards the law enforcement parties present. This can be expressed verbally by swearing, yelling, challenging, threatening, or arguing or by expressing anger, resentment or hostility. 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 or information that may be useful in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal acts, or considering an allegation against the law enforcement agency or officer.

Mandatory Activation

1. Breitung Officers will only use department issued BWCs while recording video during the commission of their official duties. Officers shall conduct a function test of their issued BWCs at the beginning of each shift to make sure the devices are operating properly. Officers noting a malfunction during testing or at any time shall promptly report the malfunction to the officer's supervisor and document the report in writing. The Department shall take prompt action to address the malfunctions.

2. It shall be the duty of all Breitung Police Officers to wear BWCs while on duty. In cases in which multiple officers will be deployed at one time. (e.g., 4th of July), officers should respond to calls with an officer equipped with a BWC, if at all possible. In the event an officer is performing activities under the command of another chief law enforcement officer or federal law enforcement official, the officer must wear and operate BWCs in accordance with this policy.

3. 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. Including but not limited to emergency calls, general calls for service, and traffic stops, search warrants, arrests, criminal investigations interviewing involved parties, and all official law enforcement related encounters.

4. Officers must wear their BWC at or above the mid-line of the waist in a position that maximizes the recording system's capacity to record video footage of the officer's activities.

5. Officers shall activate their BWC immediately upon arrival of a call for service. However, 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 the circumstance.

6. 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.

7. All recordings are property of the Breitung Police Department. While recording, the Officers have no reasonable expectation of privacy. Officers have no affirmative duty 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 Police Officers will acknowledge that the fact.

8. Once activated, the BWC should continue to record until the incident has concluded and the Officer(s) clear the scene.

9. The BWC shall be active during any contact that force is used or the person is becoming adversarial.

Whenever an Officer fails to record an activity that is required to be recorded under this policy, or fails to record for the entire duration of the activity, the Officer must document the circumstances and reasons for not recording. The Chief of Police shall review these reports and initiate any corrective action deemed necessary.

Prohibited Usage

1. Personally owned BWCs are prohibited from use.

2. Breitung Police 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.

3. Breitung Police Officers shall not access the Department's BWC data except for legitimate law enforcement or data administration purposes.

4. Posting the BWC video to social media for personal usage.

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

6. Accessing BWC data for non-business reasons.

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

Deactivating the BWC Procedures

The BWC may be deactivated following:

1. If the supervisor on scene authorizes the BWC can be deactivated.
2. While on scene and the incident has ended and further recording is unlikely to have any substance of evidentiary value. If the circumstances change, officers shall reactivate their BWCs as required by this policy to capture information of evidentiary value. If the call for service is long running that the battery is about to deactivate the BWC, the Officer may shut the BWC off. This shall be documented and BWC should be activated as soon as practical to do so.
3. 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.

Breitung Police Officers 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 Police 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.

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. Data subjects. Under Minnesota law the following are considered data subjects for purposes of administering access to BWC data:

1. Any person or entity whose image or voice documented in the data.
2. The officer who collected the data. Any officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording.

B. BWC data is presumptively private. BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result:

1. BWC data pertaining to people is presumed private, as is the BWC data pertaining to businesses or other entities.
2. Some BWC data is classified as confidential (see C. below).
3. Some BWC data is classified as public (see D. below).
4. Some BWC data must be available to inspection (see E. below).

C. Confidential Data. BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the “private” classification listed above and the “public” classifications listed below.

D. Public Data. The following BWC data is public:

1. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
2. Data that documents the use of force by a peace officer that results in substantial bodily harm.
3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted, if practicable. In addition, any data on undercover officers must be redacted.
4. Data that documents the final disposition of a disciplinary action against a public employee.

It is the policy of the Department that data also classified as private or otherwise not public, the data retains other classification and protections. For instance, data that reveals protected identities under Minn. Stat. 13.82 subd. 17 (e.g., certain victims, witnesses, and others) should not be released even if it would otherwise fit into one of the public categories listed above.

E. Use of Force. When an individual dies as a result of use of force by an officer, the Department:

1. Must allow the following individuals, upon their request, to inspect data, redacted no more than what is required by law, documenting the incident within five days of the request:
 - a. The deceased individual’s next of kin;
 - b. The legal representative of the deceased individual’s next of kin; and
 - c. The other parent of the deceased individual’s child.

The Department may deny a request if it determines that there is a compelling reason that inspection would interfere with an active investigation. When the Department denies access, the Chief of Police must provide a prompt, written denial to the individual requesting inspection providing the compelling reason access was denied and also provide notice that relief may be sought pursuant to Minn. Stat. 13.82, subd. 7.

2. Shall release all data, redacted no more than what is required by law, documenting the incident no later than 14 days after the incident, unless the Chief of Police asserts in writing that the public classification of the data would interfere with an ongoing investigation.

F. Protection of identities. The Breitung Police Department shall withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

1. Victims and alleged victims of criminal sexual conduct and sex trafficking.
2. Victims of child abuse or neglect.
3. Vulnerable adults who are victims of maltreatment.
4. Undercover officers.
5. Informants.
6. Victims of and witnesses to crimes, if the victim or witness has requested not be identified publicly.
7. Individuals who called 911, and services subscribers whose lines were used to place a call to the 911 system.
8. Mandated reporters.
9. Juvenile witnesses, if the nature of the event or activity justifies protecting the identity of the witness.
10. Juveniles who are or may be delinquent or engaged in criminal acts.
11. Individuals who make complaints about violations with respect to the use of real property.
12. Officers and employees who are the subject of a complaint related to the events captured on video.
13. Other individuals whose identities the officer believes may be legally protected from public disclosure.

F. Other authorized disclosures of data. 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

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

2. Officers shall not delete, edit, or change the recordings on the BWC without permission from the Chief of Police. Officers shall not alter, erase, or destroy any recordings, data, or meta data related to the recording prior to the expiration of the applicable retention period.

3. The videos and data will be stored on Watchguard servers.

4. The Breitung Police Department shall have guidelines for retention of data as follows:

1. All BWC data must be maintained for at least 90 days.

2. BWC must be maintained for at least one year and destroyed according to the agency's records retention schedule if:

A. The data documents the discharge of a firearm by a peace officer in the course of duty other than the killing of an animal that is sick, injured, or dangerous, use of force by a peace officer that results in substantial bodily harm; or

B. The data documents circumstances giving rise to 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.

3. The full, unedited and unredacted recording of an officer using deadly force must be maintained indefinitely.

Discipline

The unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. 13.09. 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. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.

Daniel Reing Chief of Police_____

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