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### **132.1 PURPOSE**

The purpose of this section is to establish guidelines for the use, management, storage and retrieval of recordings from the department's body worn camera (BWC) system and the Arbitrator video system.

### **132.2 POLICY**

This policy establishes standards and guidelines related to the capture and use of audio and video recordings produced by body worn cameras assigned to sworn members and support staff responsible for preparing cases for criminal prosecution and the release of public records. This policy will also address the Arbitrator video system that is used for the interview rooms.

### **132.3 DEFINITIONS**

#### **A. AXON MOBILE SMARTPHONE APPLICATION**

A smartphone application (app) that allows for a Bluetooth connection from the camera to a supported smartphone device. The app will allow a member to view live or recorded video stored on the camera. Video cannot be altered or modified, but members can tag the video in the field while the video is still stored on the camera. Tagging videos in the field will eliminate the need to tag videos after uploading at the work location.

#### **B. 30 SECOND PRE-EVENT BUFFERING**

The Axon Flex BWC is continuously recording video in 30 second looped increments. This is sometimes known as a pre-event 30 second buffer and works similar to the Arbitrator in car video buffer. Audio is not recorded until the member begins a recording. Once the member begins to record, the previous 30 seconds of video is included in the evidentiary recording.

#### **C. BODY WORN CAMERA (BWC)**

A BWC is a one piece Axon Body 3 or the two piece Axon Flex camera system that includes the camera and the Tactical Controller (TC). The two piece system cannot function without both parts.

#### **D. EVIDENCE.COM**

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Web-based, secure, offsite storage solution for the management and storage of audio/video recordings produced by each BWC.

#### E. EVIDENCE SYNC

A desktop-based application that allows Taser/Axon CEW logs and Axon Flex video to be annotated with meta-data in the same fashion as the AXON Mobile smartphone application prior to uploading to Evidence.com. SYNC streamlines video uploads from the field when you connect AXON FLEX cameras to an MDC or at a work location desktop computer.

#### F. EVIDENCE TRANSFER MANAGER (ETM)

Docking station that uploads data from a BWC to Evidence.com. The ETM also recharges the camera as well as the TC.

#### G. TACTICAL CONTROLLER (TC)

The camera control module and battery that is attached on a belt, placed in a holster, a pocket or otherwise attached to the member's uniform.

### **132.4 RULES AND PROCEDURES**

#### A. GENERAL INFORMATION

Each BWC system will be used to document various events that occur during the duty shift of the assigned member. Upon completion of the assigned member's shift, all captured data will be preserved in a secure recording storage location. Upon capture, these recordings are protected with multiple layers of encryption and cannot be altered. BWC technology facilitates the department's objectives to collect evidence for prosecutions, ensure both officer and citizen accountability, facilitate administrative inspection functions, and provide a valuable training aid by allowing for the evaluation of officer and citizen behavior.

#### B. GENERAL GUIDELINES

##### A. Training

- Members will receive prescribed training prior to being assigned a BWC. Any training provided will be commensurate with the level of participation in the BWC program (e.g., camera wearer, detective, administrator, etc.)

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**B. Care And Equipment**

- The only BWC authorized by the West Milwaukee Police Department is the department- issued Axon Body 3 or Axon Flex BWC. Personal video recording devices are prohibited.
- All BWC's and related equipment will be issued to individual members by the Chief of Police or his/her designee.
- A record of inventory will be maintained by the Chief of Police or his/her designee.
- Only members that have received the prescribed training will be assigned or permitted to wear a BWC.
- Members assigned a BWC are responsible for the proper care of the equipment.
- Any BWC that is lost or stolen will be reported.

**C. Repair / Replacement**

- Replacement video cords will be available in the Assistant Chief of Police's office.
- When a BWC is in need of repair or replacement due to damage (other than for a video cord), the member assigned the camera must notify their Watch Commander. The member shall detail the circumstances leading to the damage in an official police incident report if the damage occurred during an incident. If the damage did not occur during a reportable incident, the member shall detail the circumstances in a Department Memorandum.

**C. OPERATIONAL GUIDELINES**

**A. Pre-Shift Inspection**

- Prior to each shift, members assigned a BWC will ensure the unit is adequately charged. Further, members will inspect their charging and camera cables as well as the camera to ensure there is no visible damage and the device is in good working order. Any visible damage or concerns about the functionality of the equipment will be brought to the attention of the member's immediate supervisor as soon as it is practical to do so.

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**B. Wearing Position of the BWC**

- The FLEX camera mounted on a pair of glasses or on the head with the low rider head mount is the preferred mounting location. The adjustable collar mount, or the vest mount are secondary mounting options for the member. The camera should generally be worn on or near the member's head and worn on the member's strong side.
- The Body 3 camera mount is the pocket mount, center magnetic mount, wing clip and the molly mounts. The mount should be worn as high as practical preferably on the weak side

**C. Use of and Recording with the BWC**

- A member assigned a BWC must wear it at all times when on duty, in uniform and performing or likely to perform enforcement duties.
- Non-uniform members assigned a BWC will wear it when performing or likely to perform enforcement duties and the wearing of the BWC will not jeopardize the investigation (i.e., undercover operations).
- In-car video and body cameras are each considered a tool in the performance of law enforcement duties. When a member is assigned a BWC and operating a vehicle equipped with in-car video, both the in-car video body microphone and the BWC will be worn.
- The department recognizes that officer safety is paramount. Members with a BWC who arrive on a scene or engage in an enforcement contact must start recording as soon as it is safe and practical to do so. If multiple members are on scene with a BWC, all members with a BWC will record.
- Members with a BWC shall make every effort to activate their BWC for all investigative or enforcement contacts including, but not limited to:
  1. Vehicle stops
  2. Impaired driver investigations
  3. Field interviews and pedestrian stops
  4. Transporting citizens or prisoners
  5. Searches of persons or property
  6. Dispatched calls for service
  7. Crime scenes

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8. Crash scenes (may be turned off if member is waiting on a tow truck and no additional enforcement activity is likely)
  9. Advising a subject of Miranda warnings
  10. Suspect/witness statements and interviews
  11. Vehicle and foot pursuits
  12. Emergency response to critical incidents
- Members assigned a BWC and with a prisoner in the booking room will record until either the booking room camera is activated or the prisoner is put into a holding cell.
  - Recording at the Criminal Justice Facility (CJF) will cease upon entry to the facility unless approved by CJF staff.
  - Once a BWC is recording, members should continue to record until either the completion of the event or until they leave the scene and their involvement in the event ceases.
  - While not required by policy or state law, members assigned a BWC may find it valuable to inform other parties that they are being recorded. This has proven to be influential in garnering cooperation of subjects and has been shown to reduce incidents of use of force.
  - A BWC is not specifically designed to log evidence or to be used for any situation where fine detail and resolution is necessary. Members are encouraged to use their assigned BWC to record crime scenes prior to the arrival of crime scene technicians, especially if the scene may change or be compromised.
  - For efficiency, members assigned a BWC can view and tag captured video via the Axon mobile smartphone app or by using Sync prior to uploading to Evidence.com.

#### D. Exceptions To Recording

- Sworn personnel have discretion in whether or not to record potentially sensitive events or circumstances (e.g., victims of a sexual assault, child victim statements / interviews, nude persons who are not the target of enforcement action, or a citizen victim/witness who requests they not be recorded while giving a statement, or where otherwise authorized in this policy).

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- Sworn personnel may deactivate or mute the BWC's during non-enforcement activities such as:
  1. Member to member conversations about crime charging issues or other general conversations.
  2. Traffic control at fires, crime scenes, or crash scenes when the member's likelihood of being involved in enforcement activities is low.
  3. Lengthy hospital stays awaiting medical clearance (unless enforcement actions are likely, the likelihood of additional criminal activity or escape attempt is high, the suspect is making voluntary statements, or the member is gathering additional evidence (e.g., OWI blood draws).
- Members shall make a verbal notation on the recording anytime he or she plans to intentionally stop a recording prior to the completion of an event or incident. The verbal notation must include the reason why the member is stopping the recording.

**E. Prohibited Recordings**

- In keeping with the department's high standards of respect and integrity, members assigned a BWC will adhere to the following guidelines:
  1. BWC's will not be activated in a place where a reasonable expectation of privacy exists, such as dressing rooms, locker rooms and restrooms (Wis. Stat. § 175.22) unless this is the location of a call for service as described in 227.4 C 3 above . Any purposeful or accidental recordings made under these circumstances may be deleted prior to the standard 120 day retention period at the direction of the Chief of Police or his/her designee.
  2. BWC's shall not be used to record a body cavity search, which are only allowed to occur in a hospital or medical setting. BWC's will be used to record searches done by officers in the field (e.g., pat-downs, vehicle searches).
  3. BWC's will not be intentionally activated to record conversations of fellow members without their knowledge during routine and non-enforcement activities. This includes while a member is on a rest break, while report writing, attending roll calls, general discussions with other members, discussing a case with another member, or performing other administrative functions.

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4. BWC's will not be utilized to surreptitiously record conversations of the public and/or other members of the department.
5. Members utilizing a BWC will not knowingly record undercover officers or confidential informants.
6. BWC's will not be utilized to record any off duty or personal activity.

**F. Critical Incident Protocol**

- A critical incident for the purpose of this SOP is any police action or activity that directly or indirectly results in great bodily harm or death to a department member and/or a citizen.
- In the event of a critical incident, members assigned a BWC will refrain from viewing the recorded data until the investigative entity responsible for the investigation arrives on scene and any permitted viewing can be done in conjunction with current critical incident protocols. This section does not prohibit members in critical incidents with ongoing exigency from viewing BWC recordings that may aid the present investigation (e.g., suspect descriptions, suspect vehicles, direction of travel, etc.).
- If there are BWC's in use during a critical incident, a supervisor not involved in the actual critical incident will take physical custody of any BWC's that may have captured the incident and will as soon as practical upload them into Evidence.com by placing the camera device into a camera charging/download port

**G. Impounding Of Data, Data Uploading And Video Categorization**

- Prior to docking their camera, members should use the Axon Mobile smartphone App or Sync to assign the appropriate category, ID and Title to each individual recording. For efficiency, members should make an effort to tag and categorize their videos throughout their shift using the Axon mobile app when possible. Instructions for categorizing, titling and identifying each individual recording follow:
  1. ID field: Enter the CAD/INCIDENT number.
  2. Title field:
    - a. Case number followed by officers last name and if more than one recording for same case number the number in order of the recording.

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◇ Examples: 20-001234 Smith - 1.

3. Category fields:

- a. There are 16 category choices for each individual recording. Members will primarily use only nine of the categories (categories B-K). If multiple categories apply to an event, members should choose the category with the highest retention period available to them. Categories A and P are for administrative purposes and required by AXON. Categories L, M, N and O are reserved for supervision and command staff. If a member has recorded what would be considered a category L (training), M (use of force), or N (critical incident) event, they should notify their Watch Commander, supervisor or the Chief of Police for permission to have the item categorized as such.

- Recording Management Categories

1. The following recording categories are to be used.

- a. Uncategorized

- ◇ Used when the video contains no discernable incident or activity.
- ◇ Retention of video in this category is 120 days.

- b. Incident - No Official Police Action Taken / Call Advised

- ◇ All video files that have contact with the public having no immediate evidentiary value at the time of recording will be saved in this category.
- ◇ Any file not tagged into another category by a member will be placed into this category.
- ◇ Files retained in this category will be preserved for 120 days from the date of recording.

- c. Traffic and Municipal Ordinance Citations and/or Arrests

- ◇ All recordings that have potential use in West Milwaukee Municipal Court will be retained in this category.
- ◇ Files retained in this category will be preserved for 180 days from the date of recording.

- d. Misdemeanor or Felony Arrests

- ◇ All recordings associated with circuit court will be retained in this category.



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- ◇ Files retained in this category will be preserved for 2 years from the date of recording or until disposition of the investigation, case, or complaint is completed.
- e. Felony Arrests
  - ◇ All recordings associated with circuit court will be retained in this category.
  - ◇ Files retained in this category will be preserved for 3 years from the date of recording or until disposition of the investigation, case, or complaint is completed.
- f. Emergency Detentions
  - ◇ All recordings associated with emergency detentions (ED's) will be retained in this category.
  - ◇ Files retained in this category will be preserved for 1 year from the date of recording or until disposition of the investigation, case, or complaint is completed.
- g. Active Investigation / Evidence
  - ◇ All video files associated with an active or open investigation without an arrest or citation will be saved in this category.
  - ◇ Evidentiary recordings will be maintained as required by law, and subject to record requests.
- h. Officer Injury
  - ◇ All recordings in which a member is becomes injured will be retained in this category.
  - ◇ Files retained in this category will be preserved for 2 years from the date of recording or until disposition of the investigation, case, or complaint is completed.
- i. Testing Equipment
  - ◇ Recordings made in order to test equipment.
  - ◇ Files retained in this category will be preserved for 120 days from the date of recording.
- j. Traffic / FI Stop
  - ◇ All recordings associated with Traffic / FI stops will be retained in this category.
  - ◇ Files retained in this category will be preserved for 120 days from the date of recording.

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- k. OWI
  - ◇ All recordings associated with an OWI will be retained in this category.
  - ◇ Files retained in this category will be preserved for 1 year from the date of recording or until disposition of the investigation, case, or complaint is completed.
  
- l. Training
  - ◇ This category will be used by supervisors to save recordings that can be used for teaching or training other members.
  - ◇ Files retained in this category will be preserved for 90 days from the date of recording.
  
- m. Use of Force
  - ◇ All recordings in which a member is involved in a use of force not rising to the level of a critical incident will be retained in this category.
  - ◇ Files retained in this category will be preserved for 2 years from the date of recording or until disposition of the investigation, case, or complaint is completed.
  
- n. Critical Incident
  - ◇ For the purpose of this SOP, a critical incident is any police action or activity that directly or indirectly results in great bodily harm or death to a department member and/or a citizen.
  - ◇ All recordings of critical incidents will be placed in this category by supervisors or command staff only.
  - ◇ Incidents in this category are only viewable by command staff who may share the recordings with other members as determined the Chief of Police.
  - ◇ Once videos are placed in this category they may only be reassigned to a different category or deleted at the direction of the Chief of Police or his/her designee.
  - ◇ Retention of critical incidents is permanent.
  
- o. Administrative Hold
  - ◇ Any recording can be placed on administrative hold by a supervisor.
  - ◇ Recordings on administrative hold will be retained as required by law.
  
- p. Pending Review

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◇ This folder is populated when there is a technical issue with a recording. Files with technical issues are forced into this folder automatically until reviewed by a department administrator and/or a Taser Corporation administrator. Once the technical issues with a recording are resolved, it will be re-categorized as appropriate.

- At the end of each shift, members assigned a BWC will place their TC and camera into the ETM for automatic uploading of all recorded data from the BWC into Evidence.com.
- The recorded data is considered to be impounded once uploaded. Upon upload to Evidence.com, the BWC will be cleared of existing data and ready for use during the member's next shift.

#### H. Reporting / Documentation

- The use of a BWC will be documented in the opening paragraph of a CAD Update, incident or supplemental report.
- When a BWC records an incident resulting in an arrest or citation, the use of the BWC will be documented in the citation and/or the narrative. If a citation is issued, the words "On Officer Video" will be written in the lower right hand corner of a paper citation or typed in the Agency Notes section when using TraCS.

#### I. Department Review / Training

- All recordings made with a BWC are the property of the West Milwaukee Police Department.
- Recordings may be reviewed:
  1. By a police member viewing their individually assigned recordings to assist with writing a report, supplement, citation, memorandum or court case preparation.
  2. By authorized persons for the purpose of reviewing evidence and processing records requests.

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3. By a supervisor to investigate a specific act or allegation by another member or by a member of the public. While recorded data shall not be routinely or randomly viewed by supervisory members for the sole purpose of enforcing policy violations, the Chief of Police or his/her designee may order periodic integrity inspections of recordings to be conducted.
  4. By authorized department personnel participating in an official investigation, such as a citizen complaint, administrative inquiry or criminal investigation.
  5. By others with permission of a supervisor if they are participating in an official investigation.
  6. By members of the West Milwaukee Police Commission pursuant to West Milwaukee Village Ordinance, those are participating in an official investigation or review of a citizen complaint, alleged misconduct of a police member, or for a member's appeal of discipline rendered by the Chief.
- BWC recordings may be used for the purposes of training. Members aware of BWC recordings that may serve as a training aid for other members should notify a supervisor who will review the recording to determine its feasibility as a training aid.
    1. Members involved in a recording that has been deemed a training aid will be notified by a supervisor of the intent to use the recording for training purposes.
    2. Members objecting to the display of a recording will submit their written objection on a Department Memorandum. The member's commanding officer will determine if the training value outweighs the member's objection.
    3. Supervisors having received the involved member's permission to use a video for training or when a member's objection for use has been overruled by the commanding officer shall categorize the video as a category 9 (training) video.
  - BWC recordings will never be used with the intent of belittling, ridiculing or embarrassing any member of the department, notwithstanding the potential use of BWC recordings in disciplinary matters.

**J. Data Privacy / Retention Of Recordings / Records Requests**

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- All digital media that is captured with a BWC is the property of and will be retained by the West Milwaukee Police Department for a minimum of 120 days following the date it is recorded. Captured video may be retained for longer periods in the event the video is the subject of a litigation hold, a criminal case, part of discovery, etc.
- Unauthorized accessing, copying, or releasing captured video without the approval of the Chief of Police or his/her designee is strictly prohibited. Members are prohibited from making copies of a BWC audio/video recording by using another recording device such as a cell phone.
- With the proper Evidence.com permission level, recordings may be duplicated or shared with criminal justice agencies or when otherwise authorized by the Chief of Police or his/her designee.
- Members will not allow citizens to review video captured by a BWC unless there is an investigative reason to do so and such viewing has been approved by a supervisor. Members shall advise citizens that they may request a copy of the recording through the public records process.
- The release of video requested through a public records request will be handled in accordance with existing policy and public records laws. Reproduction fees for duplication of recordings will remain the same as any other recording.
- Release of Body Camera Data
  1. Under the bill, body camera data are, in general, open to inspection and copying under the Open Records Law.
  2. The bill contains an exception to the general rule that body camera data are open to inspection and copying relating to the treatment of minors and victims of a sensitive or violent crime, and a record subject who is in a location where the record subject has a reasonable expectation of privacy who is captured by body camera data. Specifically, the bill provides that the privacy of a record subject who is a minor, is a victim of a sensitive or violent crime, or has a reasonable expectation of privacy must be maintained and that access to such data must be provided only if the public interest in allowing access is so great as to outweigh that public policy. In these cases, the protected record subject's face and anything else that would allow the protected record subject to be identified may be redacted using pixelization or another method of redaction.

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A decision to redact body camera footage pursuant to these provisions is subject to be challenged in a mandamus action in the same manner as are any other decisions to deny access to part or all of a record under the Open Records Law.

3. The provisions of the bill regarding the privacy of a victim of a sensitive or violent crime do not apply if the record subject, or his or 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 minor does not apply if the parent or legal guardian of the minor does not object to granting access to the data. The presumption regarding the privacy of an individual with a reasonable expectation of privacy does not apply if the individual does not object to granting access to the data.
  4. The bill defines “record subject” as an individual recorded by a body camera to whom all of the following apply: (1) the individual is depicted in the recording, or the individual’s voice is audible in the recording; (2) the individual’s identity is known to the law enforcement agency; (3) 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; and (4) 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 or is alleged to have been committed against the law enforcement officer while the law enforcement officer was present at the location that was recorded.
  5. The bill also provides that for purposes of an open records request for access to body camera data used by a law enforcement agency, the law enforcement agency is the legal custodian of the record. If any other authority has custody of such data, that authority is not the legal custodian of that data and must deny any portion of an open records request that relates to that body camera data.
  6. Additionally, the bill provides that all of the provisions related to the release of body camera data do not prohibit investigators investigating an officer-involved death from releasing body camera data when required to do so under current law.
- Prior to the release of any BWC recording to the public, authorized personnel will ensure that proper redactions have been made in accordance with state law.

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In order to maximize the utility of video cameras in the interview room as well as the booking room for interviews the follow procedures are set forth:

- A. When conducting an interview in the conference / soft interview room the camera may be turned on using the key activator outside the door or by pushing the record button on the recorder located in the recorder room. The camera must be turned off on the recorder when the interview is completed. The BWC can supplement the interview recording.
- B. When conducting an interview in the booking room the camera may be turned on using the key activator outside the door or by pushing the record button on the recorder located in the recorder room. The camera must be turned off on the recorder when the interview is completed. The BWC should also be used as prescribed above in 132.4 (C)(c).
- C. The camera and wireless microphone will automatically begin recording once the key activator outside the door is activated, or when an officer presses the record button.

**132.6 RULES AND PROCEDURES**

- A. These files can be accessed from a department computer in the recorder room for downloading. If the wireless system is down, supervisors can manually transfer files using the DVR flashcard. Once downloaded the files are accessible from desktop computers.
- B. Digital files that are not needed as evidence will be kept for 120 days and will then be deleted. The Video Camera System Manager is responsible for deleting files over 120 days old.
- C. Digital files needed as evidence will be transferred to a DVD and the J drive when requested by the arresting/issuing officer of the incident. Digital files for municipal traffic violations will not normally be inventoried as evidence.
- D. Supervisors may access digital files for officer evaluation, citizen complaints or training purposes.
- E. Supervisors may, for administrative purposes, make copies of digital video files.
- F. All categories and retention periods will be the same as the body worn camera section of this policy 132.4 (G) through 132.4 (H)