

MILTON POLICE DEPARTMENT

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SUBJECT: Body Worn Cameras

AUTHOR: Scott E. Marquardt, Chief of Police

REVIEWED BY: Deputy Chief Michael Chesmore

PRIOR REVIEWS OR REVISIONS: 03-18-2016, 11-08-2016, 11-27-2019, 07-17-2020

REPEALS:

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I. PURPOSE

The purpose of this policy is to establish guidelines to be followed during the use of mobile audio and video recording equipment.

II. POLICY

It is the policy of the Milton Police Department that all sworn officers on patrol will wear a department issued body worn camera at all times unless a camera is unavailable. All other officers are encouraged to use body worn cameras when conducting official police activity consistent with the requirements of this policy.

III. DISCUSSION

In 2019, Wisconsin State Statute 165.87 was adopted with rules mandating the use and management of body worn cameras. This policy complies with all mandates required by the statute.

IV. DEFINITIONS

- A. Body Worn Camera (BWC): A portable audio and/or video recording device which can be worn on an officer's body.
- B. Mobile Audio/Video Recording Equipment: Portable, wireless, electronic devices designed for capturing audio and/or video recordings. This includes body worn cameras.

V. PROCEDURE

- A. Training
 - 1. All officers assigned a body worn camera shall receive training in the following areas:

- a. This policy
 - b. Proper use of the equipment
 - c. Data retention requirements
 2. All police department personnel maintaining, storing or releasing body camera data shall receive training in the following areas:
 - a. This policy
 - b. Data retention requirements
 - c. Data release requirements
- B. 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.
1. 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.
 2. The BWC must be worn in the vertical orientation.
 - a. The ideal position to attach the camera is level with the sternum but precise positioning will vary depending on the user.
 - b. Officers have the discretion to place the camera on their body in the best position to record as much audio/video information as possible.
- C. Officers are not expected to jeopardize their safety in exchange for obtaining better audio/video recordings.
- D. Each patrol officer equipped with a BWC shall generally record all official police contacts they are directly participating in. If multiple patrol officers are directly involved in an official police contact, all officers generally shall record the contact. Supervisors who provide cover and back up with no direct involvement in the incident maintain the discretion whether or not to activate the BWC.
1. Examples of BWC immediate activation include but are not limited to:
 - a. All officer/subject contacts during traffic stops.

- b. All officer/subject contacts during an arrest including approach, custody, statements, transportation, police department booking process and release.
 - (1) The Rock County Jail already maintains a camera surveillance system within their facility. Officers have the discretion to deactivate their BWC once inside the jail facility.
 - c. All officer/subject contacts during an emergency detention (51.15) or detox (51.45) situation including approach, custody, statements, transportation and release to the treating facility.
 - (1) Officers may consider ceasing recording while in hospitals and other medical facilities. While recording statements of the subject being placed in custody or being considered for detention is appropriate, the officer should be cognizant of the privacy needs of other patients and employees while inside a medical facility. Therefore, officers have the discretion to turn off the BWC in such a facility if the officer deems it to be appropriate.
 - d. 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.
 - e. When responding with lights and sirens to any call.
 - f. At no time is an officer expected to jeopardize their safety or the safety of another person in order to immediately activate their issued BWC. Any BWC not “immediately” activated due to the safety of an officer or another person shall be activated as soon as possible.
2. Continuous, non-stop recording during all official police business contacts or incidents of an enforcement nature is generally required.
- E. BWC Deactivation
- 1. The BWC shall be deactivated during the application of the Lethality Assessment and during the phone call to the YMCA hotline advocate during domestic violence investigations.
 - 2. The BWC may be deactivated:
 - a. During non-enforcement activities such as:

- (1) Officer-to-officer conversations about items such as charging issues and other general conversations,
 - (2) Fire assist calls that are exclusively medical and involve no enforcement actions,
 - (3) Other routine non-citizen contact incidents, such as meeting with Public Works or other city employees.
 - (4) While conducting mundane traffic duties when not in direct contact with a member of the public, such as waiting for a tow truck, conducting traffic control, protecting an accident scene, etc.
- b. When gathering information from a confidential informant (CI)
- (1) 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 saved and stored separately as CI information.
- c. When working with a traumatized victim or juvenile, such as during a sexual assault medical exam.
- d. When a police officer is receiving medical treatment.
- e. When working in the vicinity of an explosive device as the BWC may emit electromagnetic or radio waves that could trigger the device.
3. If an officer feels it is necessary to stop recording within the constraints of this policy, he or she is permitted to verbally indicate his or her intent to stop the recording before stopping the device, and upon reactivation, state that he or she has restarted the recording. This will help avoid accusations of editing the recording after the fact.
- F. Officers shall document in all pertinent reports whenever recordings are made during an incident in question or if a recording was not made when required.
- G. Officers are encouraged to inform their supervisors of any recorded sequences that may be of value for training purposes.

- H. Officers shall not intentionally alter recordings in any way.
- I. Officers shall not use mobile audio/video recording equipment to record personal conversations, i.e., disciplinary actions, administrative discussions, union discussions, supervisor's directives, or talks between employees.
- J. Use of BWCs or recording equipment is for on-duty, official police business only.
 - 1. Officers are reminded of the restrictions in Wisconsin State Statute 175.22 prohibiting audio or video recording in locker rooms. If an accidental recording of this nature occurs, it may be deleted only by the Patrol Sergeant, Deputy Chief or Chief of Police.
 - 2. The use of BWCs for personal use is prohibited unless granted permission by the Chief of Police. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the agency.
- K. Recording Control and Management
 - 1. BWC recordings are stored using camera vendor's provided storage system. This system requires officers to title and categorize their video files.
 - a. Officers shall title (using agency file number) and categorize all videos in which they request a file number for.
 - b. Officers shall categorize all videos in accordance with the category and retention schedule in this policy and incorporated into the software program.
 - 2. BWC recordings are subject to existing State of Wisconsin open records laws.
 - a. Requests for video records will be reviewed and provided by a department supervisor in accordance with the open records release policy and State of Wisconsin Statutes.
 - b. Redaction decisions will be applied to requests for video records in the same manner it is applied to the release of other records. Such redaction may include:
 - (1) Redacting video and/or audio of juveniles appearing within the footage.
 - (2) Redacting video and/or audio of victims of sensitive or violent crimes.

- (3) Other redactions that may be necessary according to open records policies and statutes
 - c. A reproduction fee for the duplication of recordings will be consistent with the current process and fees for providing copies of squad camera or other video-based public record.
 - d. Recordings may be duplicated for another criminal justice agency when requested or otherwise authorized by the Chief of Police or a supervisor.
 - e. Recordings may be shown to Milton Police Department employees for training, quality assurance and evaluation purposes.
 - f. Recordings may be shown to other persons provided prior approval is obtained from the Chief of Police or a supervisor. Accessing, copying or releasing files for non-criminal justice purposes is prohibited.
 - g. Body camera data may not be destroyed at any time after the receipt of an open records request except as provided by current law.
3. BWC Data Retention:
- a. All body worn camera data shall be retained for a minimum of 120 days after the date of the recording.
 - b. Body worn camera data related to any of the following shall be retained until final disposition of any investigation, case, or complaint to which the data pertain:
 - (1) An encounter that resulted in the death of any individual or actual or alleged physical injury to an individual.
 - (2) An encounter that resulted in a custodial arrest.
 - (3) A search during an authorized temporary questioning (“Terry Stop”).
 - (4) An encounter that included the use of force by a law enforcement officer. This does not include the use of a firearm to dispatch an injured wild animal.
 - c. Retention beyond 120 days may be directed by a law enforcement officer or law enforcement agency, a prosecutor, a defendant, or a

court that determines that the data have evidentiary value in a prosecution. A person making a preservation directive shall submit the directive within 120 days after the date of recording.

- d. Body camera data that is used in a criminal, civil, or administrative proceeding may not be destroyed unless:
 - (1) There is a final disposition (including appeals).
 - (2) A court or Hearing Examiner determination that the data is no longer needed.
 - (3) A court or Hearing Examiner order the data be destroyed.

4. BWC Video Categories and Automatic Retention Schedule:

- a. Felonies: Until manually deleted
- b. Misdemeanors: 7 years
- c. All OWIs: 7 years
- d. Confidential Information/Informants: 7 years
- e. Critical Incidents: Until manually deleted
- f. Open Records/FOIA: 158 weeks
- g. Traffic incidents other than OWI: 366 days
- h. Ordinance violations: 366 days
- i. Taser Download: 366 days
- j. Calls for service (including warrant apprehensions, officer-initiated activity, and other recordings not adequately categorized in the above): 121 days
- k. Recycle/Test (to include routine checks of the camera as well as training and practice videos): 121 days
- l. Restricted – Accidental: 121 days
- m. Uncategorized: Until manually deleted
- n. Pending Review: Until manually deleted

- o. Never Delete: Until manually deleted
 - 5. Body camera footage of an officer-involved critical incident will be placed into “lockdown” within the software program, limiting its access to only the Chief of Police and Deputy Chief. Footage availability may also be limited by the agency investigating the officer-involved critical incident.
 - 6. The Patrol Sergeant or another employee designated by the Chief of Police will conduct random reviews of BWC footage for the purposes of officer performance and training needs. The random reviews will be limited to all BWC footage captured on each of three fixed days per month.
- L. In accordance with state statute, this policy will be published to the department’s website so that it is made available to the public.

BY ORDER OF THE CHIEF OF POLICE


