

	KENOSHA POLICE DEPARTMENT				
	POLICY AND PROCEDURE				
	41.14 Mobile Video/Audio and Body-Worn Camera Equipment				
Effective Date:	2/1/2018	Revision Date:	3/25/2022		
Action:	41.14 Mobile Video/Audio Equipment			Number of pages:	9

I. PURPOSE

This policy is intended to provide Kenosha Police Department Personnel with standards for the use and maintenance of Mobile Recording Equipment and Body-Worn Cameras (BWCs) so events and contacts with the public are reliably recorded in accordance with this policy and state law.

II. POLICY

The use of Mobile Recording Equipment and Body-Worn Cameras will help preserve public confidence and assist police personnel in performing their duties more efficiently. The Mobile Recording Equipment and Body-Worn Cameras also provide police personnel additional protection while performing their duties.

It is the policy of the Kenosha Police Department that police personnel shall activate the Mobile Recording Equipment and Body-Worn Cameras when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations or other recording devices used by the Department (Interview rooms).

The Kenosha Police Department recognizes that the Mobile Recording Equipment and Body-Worn Camera will not capture exactly what police personnel sees and hears, or what police personnel senses or experiences. The recordings do not provide the totality of the circumstances that drives police personnel's response to a particular situation.

III. DEFINITIONS

Police Personnel: Any sworn or non-sworn member of the Kenosha Police Department.

Body-Worn Cameras (BWCs): A department issued portable audio/video recording device that can be worn on a police personnel's body.

Mobile Recording Equipment: Recording equipment installed in the vehicle for capturing audio/video or both. This equipment includes the vehicle-mounted cameras, the vehicle-mounted microphones, and the vehicle computer that contains the software for the system.

Special Investigations Unit (SIU): A multi-agency task force consisting of members of the Kenosha Police Department, and other local or federal law enforcement agencies for which

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a Memorandum of Understanding has been established.

Special Weapons and Tactics Unit (SWAT): A team of law enforcement and support professionals who respond when requested who are specifically trained to provide a planned tactical response to high-risk situations that require the application of specialized lifesaving tools, tactics, and capabilities, which exceed those immediately available to the agency's first responders.

School Resource Officers (SROs): An officer with sworn authority who is deployed by an employing law enforcement agency or school district in a community-oriented policing assignment to work in collaboration with one or more schools and function as a school-based law enforcement officer.

Critical Incident: An incident involving a law enforcement officer that results in death or an injury which may result in death to a person; or any incident that the Chief of Police or his designee declares a critical incident.

IV. BODY WORN CAMERAS PROCEDURES

A. Administration

The Kenosha Police Department has adopted the use of BWCs to accomplish several objectives. The primary objectives are as follows:

1. BWCs allow for documentation of the police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of police personnel reports and testimony in court.
2. Audio and video recordings also enhance this agency's ability to review probable cause for arrest, police personnel and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for police personnel evaluation and training.

B. Activation of the BWC

1. Police personnel shall activate the BWC in any of the following situations:
 - (a) All enforcement and investigative contacts including, traffic stops, crime interdiction, calls for service, and field interview (FI) situations.
 - (c) Self-initiated activity in which a member would normally notify Dispatch.
 - (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
 - (e) Search warrant entry and execution.
2. Police personnel engaged in direct or indirect investigatory or enforcement action must activate their camera regardless of the number of police personnel on the scene with BWCs.
3. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy (see items D.1-4) or as otherwise authorized by a supervisor.
4. Police personnel are not obligated to inform citizens they are being recorded and should not stop recording at their request. Police personnel should offer explanations as to why recordings are beneficial to all involved and offer suggestions to help mediate any conflict, such as moving to a different location/room, etc....

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5. Officers, based on their judgement, may deactivate the BWC if requested to do so by a crime victim or the crime victim's legal guardian.
6. Civilians shall not be allowed to review the recordings at the scene.

C. Procedures for BWC Use

1. BWC equipment is issued primarily to police personnel as authorized by this agency. Police personnel who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.
2. Police personnel shall use only BWCs issued by this department. 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.
3. The BWC must be worn on the front of the uniform or outside carrier, unobstructed in the front-facing torso area, in a manner that maximizes the video capture area of the camera. Every effort should be made to ensure the camera is not obstructed by outer clothing, such as a traffic vest, or patrol jacket. Police personnel shall only use the BWC mounts approved by the Kenosha Police Department.
4. Police personnel who are assigned BWCs must complete an agency-approved and/or provided training program to ensure proper use and operations. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
5. BWC equipment is the responsibility of individual police personnel and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of supervision as soon as possible so that a replacement unit may be procured.
6. Police personnel shall inspect and test the BWC before each shift to verify proper functioning and shall notify their supervisor of any problems.
7. Throughout the police personnel's shift or at the end of their shift, all recorded video files shall be given a classification code and corresponding incident number in the proper incident number format. (xxxx-xxxxxxx)
8. Activity not requiring an assigned incident number shall be tagged appropriately without an incident number being assigned.
9. Police personnel shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the Chief of Police or his or her designee.
10. Police personnel are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
11. When police personnel are suspected of wrongdoing, the department reserves the right to limit or restrict the police personnel from viewing the video file.
12. Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Chief of Police or his or her designee in accordance with state record retention laws. All requests and final decisions shall be kept on file.
13. Police personnel may review their video/audio footage before completing reports to aid in its accuracy. If police personnel are involved in an officer-involved shooting or critical incident, the procedures set forth in Kenosha Police Department Policy, 1.3 Use of Force shall be followed.
14. Police personnel shall note in incidents, arrest, and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports or statements.

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15. When police personnel fail to activate their BWC, do not record the entire incident, or interrupt the recording for any reason, they shall document, on the recording, the time, place and reason why the recording was not made or was discontinued. This shall also be documented in a written report if a report is completed by the officer.
16. The BWC shall be returned to a department authorized docking station at the end of their shift. All files shall be securely uploaded periodically and no later than the end of each shift unless directed otherwise by supervision. Each file shall contain information related to the date, BWC identifier, and assigned police personnel.
17. Officers are allowed to utilize the BWC temporary mute feature when discussing investigative strategies or tactical planning. This shall also be documented in a written report if a report is completed by the officer.

D. Restrictions on Using the BWC

BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not generally be used to record:

1. Communications with other police personnel without the permission of the Chief of Police.
2. Encounters with undercover police personnel or confidential informants.
3. When on break or otherwise engaged in personal activities; or in any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
4. Police personnel who are engaged in planning, information gathering, or debriefing of an incident.
5. Evidence Technicians processing a crime scene after the initial response by police personnel, shall not activate their BWC while processing the scene unless they encounter another law enforcement activity that requires the activation of the BWC.
6. Police personnel working a planned event that involves traffic direction, planned public relations events or other special events do not have to activate their BWC unless they encounter a law enforcement activity that requires the activation of the BWC.
7. Police personnel who are assigned as perimeter security at any secured crime scene do not have to have the BWC activated unless the scene assignment has a law enforcement-related function such as crowd control or another such public interaction.
8. Police personnel who are assigned a hospital guard duty for an extended period of time do not have to have their BWCs activated unless they encounter another law enforcement activity that requires the activation of the BWC.
9. A health care provider is discussing medical issues with a patient.
10. While in the hospital waiting for a person in custody to be medically cleared unless their behavior dictates the need for continued activation of the BWC.
11. While transporting subjects out of county unless their behavior dictates the need for BWC recording.
12. Police personnel are not required to wear their BWC for court proceedings, DA pre-court meetings, or any other administrative court proceedings.

E. School Resource Officers

The Kenosha Police Department recognizes that the duties and working environment for School Resource Officers (SROs) are unique within law enforcement. It is recognized

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that SROs are required to maintain school safety while keeping the sanctity of the learning environment that the school provides. SROs are expected to continuously build trusting relationships with students and staff. They also have impromptu interventions with students to deescalate arguments and/or conflicts. It is with this understanding that the Kenosha Police Department provides special regulations to SROs on their use of BWCs while remaining in compliance with the Kenosha Police Departments Body-Worn Camera Policy and Procedure.

1. The BWC shall be activated in any of the following situations:
 - a. When summoned by any individual to respond to an incident where it is likely that any law enforcement-related activity will occur.
 - b. Any self-initiated activity where it is previously known or facts develop that a custodial arrest will be made or a law enforcement-related activity will occur.
 - c. Any self-initiated activity where it is previously known or facts develop that the questioning/investigation will be used later in criminal charges.
 - d. When feasible, an SRO shall activate the BWC when the contact becomes adversarial, the subject exhibits unusual or aggressive behavior, or circumstances indicate that an internal complaint will likely be filed.
2. If exigent circumstances prevent an SRO from turning on a BWC when required, the BWC shall be activated as soon as practicable.
3. If an incident is recorded on a BWC, the principal of the school shall be notified of the incident/recording.
4. It is also recognized that SROs often have conversations with students/staff that are unrelated to the investigation of a crime and fall under the definition of a community caretaking function. It is not appropriate to record these conversations as it diminishes the trust between the individual and the SRO.

F. Supervisory Responsibilities

1. Supervisory personnel shall ensure that police personnel equipped with BWC devices utilize them in accordance with policy and procedures defined herein.
2. At least monthly, supervisors will randomly review BWC recordings to ensure that the equipment is operating properly and that police personnel are using the devices appropriately and in accordance with policy and to identify any areas in which additional training or guidance is required.
3. Recordings may not be reviewed indiscriminately for disciplinary purposes. Recordings will be reviewed when completing the review process stated in #2 of this section, a complaint about misconduct has been made or discovered, or as part of a use of force review.
4. Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct, or reports of meritorious conduct, or whenever such recordings would be beneficial in reviewing the member's performance.
5. When a non-deadly; less-lethal use of force or critical incident occurs supervisors will follow the procedure set forth in Kenosha Police Department Policy 1.3 Use of Force: Section XI Use of Non-Deadly; Less-Lethal Force.
6. If police personnel are involved in an officer-involved shooting or critical incident, the procedures set forth in Kenosha Police Department Policy, 1.3 Use of Force shall be followed.

V. MOBILE VIDEO AND AUDIO RECORDING PROCEDURE

In order to ensure that the Mobile Recording Equipment is functional and available at the time of need thus providing the department with the most benefit, police personnel operating a vehicle equipped with the Mobile Recording Equipment shall adhere to the following process:

- A. At the beginning of the tour, the Mobile Recording Equipment must be checked for function and serviceability.
 - 1. Police personnel shall log onto the system, enter their identifying information, and shall sync their BWC at the beginning of their tour of duty.
 - 2. The Mobile Recording Equipment shall be checked by police personnel for proper operation during the squad inspection at the beginning of the tour.
 - 3. If the equipment is not functioning properly police personnel will immediately notify their supervisor and complete the proper repair form for the Mobile Recording Equipment.
 - 4. The Mobile Recording Equipment system should be kept running on the vehicle for the police personnel's entire tour so that recording can be activated at any time.
 - 5. The use of the Mobile Recording Equipment is required during the following situations:
 - a. Pursuits
 - b. Traffic Stops
 - c. Squad accidents
 - d. Arrest situations
 - e. Any time police personnel are operating in an emergency vehicle mode
 - f. Crowd gatherings and large disturbances
- B. The Mobile Recording Equipment shall be operated according to instruction and training.
- C. Police personnel should document in the investigative report any audio or video recording that could be beneficial as evidence in that case.
- D. Throughout the police personnel's shift, audio or video files shall be given a classification code and corresponding incident number in the proper incident number format. (xxxx-xxxxxxx)
- E. Activity not requiring an assigned incident number shall be tagged appropriately without an incident number being assigned.

VI. Storage and Retention

- 1. Any release of video/audio files will be done in accordance with any existing departmental policy and/or state open records laws.
- 2. All access to Mobile Recording Equipment and BWC data (images, sounds, and metadata) must be specifically authorized by the Chief of Police or his or her designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.

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3. Data from BWCs and Mobile Recording Equipment generated by police personnel shall be retained for a minimum of 120 days after the date of recording.
4. Data from a BWC or Mobile Recording Equipment used by police personnel that records any of the following shall be retained until final disposition of any investigation, case, or complaint to which the data pertain:
 - a. An encounter that resulted in the death of any individual or actual or alleged physical injury to an individual.
 - b. An encounter that resulted in a custodial arrest.
 - c. A search during an authorized temporary questioning as provided in 968.25 (i.e. Terry Stop)
 - d. An encounter that included the use of force by a law enforcement officer, unless the only use of force was the use of a firearm to dispatch an injured wild animal.
5. Retention of video beyond 120 days may be directed by a law enforcement officer, or law enforcement agency, a board of police and fire commissioners, a prosecutor, a defendant or a court that determines that the data has evidentiary value in a prosecution.
6. A person making a preservation request or directive of video/audio files shall submit the directive or request to the Kenosha Police Department within 120 days of the recording.
7. Prior to release of any audio/video recordings, the Kenosha Police Department shall review and make the appropriate redactions in accordance with state law. See Appendix A: WI Stat. 165.87(3)
8. Files should be securely stored in accordance with department standards, state records retention laws and are no longer useful for purposes of training or for use in an investigation or prosecution. See Appendix A: WI Statute 165.87 **Body cameras and law enforcement**

Appendix A.

65.87 Body cameras and law enforcement.

- (1) If a law enforcement agency uses a body camera on a law enforcement officer, the law enforcement agency shall do all of the following:
- (a) Administer a written policy regarding all of the following:
 - 1. The use, maintenance, and storage of body cameras and data recorded by the body cameras.
 - 2. Any limitations the law enforcement agency imposes on which law enforcement officers may wear a body camera.
 - 3. Any limitations the law enforcement agency imposes on situations, persons, or encounters that may be recorded by a body camera.
 - (b) Train all law enforcement officers wearing a body camera on the policy under par. (a) and on the requirements under sub. (2).
 - (c) Train all employees that use, maintain, store, or release data from a body camera on the policy under par. (a) and on the requirements under subs. (2) and (3).
 - (d) Periodically review practices regarding the body cameras and data from body cameras to ensure compliance with the policy under par. (a) and the requirements under subs. (2) and (3).
 - (e) If the law enforcement agency maintains an Internet site or has an Internet site maintained on its behalf, make the policy under par. (a) available to the public on the Internet site.
- (2)
- (a) Except as provided in pars. (b), (c), and (d), all data from a body camera used on a law enforcement officer shall be retained for a minimum of 120 days after the date of recording.
 - (b) Data from a body camera used on a law enforcement officer that record any of the following shall be retained until final disposition of any investigation, case, or complaint to which the data pertain, except as provided in pars. (c) and (d):
 - 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 as provided in s. 968.25.
 - 4. An encounter that included the use of force by a law enforcement officer, unless the only use of force was the use of a firearm to dispatch an injured wild animal.
 - (c) Retention beyond the period determined under par. (a) or (b) may be directed by a law enforcement officer or law enforcement agency, a board of police and fire commissioners, a prosecutor, a defendant, or a court that determines that the data have evidentiary value in a prosecution. A person making a preservation directive under this paragraph shall submit the directive to the law enforcement agency having custody of the record within 120 days after the date of recording.
 - (d) Data from a body camera used on a law enforcement officer that are used in a criminal, civil, or administrative proceeding may not be destroyed except upon final disposition, including appeals, a determination from the court or hearing examiner that the data are no longer needed, or an order from the court or hearing examiner.
 - (e) Notwithstanding pars. (a) to (d), data from a body camera used on a law enforcement officer may not be destroyed during the period specified in s. 19.35 (5).
- (3)
- (a) In this subsection:
 - 1. “Authority” has the meaning given in s. 19.32 (1).
 - 2. “Record subject” means an individual recorded by a body camera used on a law enforcement officer to whom all of the following apply:
 - a. The individual is depicted in the recording, or the individual's voice is audible in the recording.
 - b. The individual's identity is known to the law enforcement agency.
 - c. 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.
 - d. 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.
 - 3. “Requester” has the meaning given in s. 19.32 (3).

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- (b) Data from a body camera used on a law enforcement officer are subject to the right of inspection and copying under s. [19.35 \(1\)](#), except as provided in par. (c).
- (c)
1. It shall be the public policy of this state to maintain the privacy of a record subject who is a victim of a sensitive or violent crime or who is a minor and that access to data from a body camera used on a law enforcement officer that record such a record subject shall be provided only if the public interest in allowing access is so great as to outweigh that public policy. In that case, the record subject's face and anything else that would allow the record subject to be identified may be redacted using pixelization or another method of redaction. The presumption under this subdivision regarding the privacy of a record subject who is a victim of a sensitive or violent crime does 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 under this subdivision regarding the privacy of a record subject who is a minor does not apply if the parent or legal guardian of the record subject does not object to granting access to the data.
 2. It shall be the public policy of this state to maintain the privacy of a record subject who is in a location where the record subject has a reasonable expectation of privacy and that access to data from a body camera used on a law enforcement officer that record a record subject in such a location shall be provided only if the public interest in allowing access is so great as to outweigh that public policy. In that case, the record subject's face and anything else that would allow the record subject to be identified may be redacted using pixelization or another method of redaction. The presumption under this subdivision does not apply if the record subject does not object to granting access to the data.
 3. If a requester believes that an authority has improperly made a decision to redact or deny access to data under subd. [1.](#) or [2.](#), the requester may pursue the remedies under s. [19.37 \(1\)](#).
- (d) For purposes of requests under s. [19.35 \(1\)](#) for access to data from a body camera used by a law enforcement agency, the law enforcement agency is the legal custodian of the record, and if any other authority has custody of any such data, that authority is not the legal custodian of that data. If any other authority receives a request under s. [19.35 \(1\)](#) for that data, that authority shall deny any portion of the request that relates to that data.
- (e) Nothing in this subsection prohibits the release of data from a body camera under s. [175.47 \(5\) \(b\)](#).

History: [2019 a. 108](#); s. 35.17 correction in (1) (e), (2) (b) 4.