
Body Worn Cameras and Audio Recorders

420.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of body worn cameras and portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems, whether body-worn, hand-held, or integrated into portable equipment (Wis. Stat. § 165.87).

This policy does not apply to mobile audio/video recordings, interviews, or interrogations conducted at any Appleton Police Department facility, authorized undercover operations, wiretaps, or eavesdropping (concealed listening devices).

420.2 POLICY

The Appleton Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

420.3 COORDINATOR

The Chief of Police or the authorized designee should designate a coordinator responsible for (Wis. Stat. § 165.87):

- (a) Establishing procedures for the security, storage, and maintenance of data and recordings.
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging, or marking events.
- (e) Coordinating with the Professional Development Coordinator to provide training on this policy to:
 1. Officers who are authorized to use portable audio/video recorders.
 2. Members of the Department who use, maintain, store, or are responsible for the release of records and recordings.
- (f) Periodically reviewing the Department's practices relating to the use, maintenance, and storage of body cameras and data to confirm compliance with this policy.
- (g) Ensuring this policy is available to the public on the Department's website.

420.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity of this department regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

Body Worn Cameras and Audio Recorders

420.5 MEMBER RESPONSIBILITIES

At the beginning of each shift, the officer should remove the body worn camera from the ETM and affix the BWC to their uniform, verify the camera is connected to the Axon View app, and periodically conduct a function check to ensure the following functions of the BWC are working properly:

- (a) Video recording
- (b) Audio recording
- (c) Accurate time/date and other information on the display
- (d) Pre shift function checks shall be classified as “non-evidentiary video.”
- (e) Officers not assigned a BWC may check out a BWC assigned to their unit through the Lieutenant assigned to that unit. Officers checking out shared units should ensure the unit is assigned to them to accurately depict the owner of the audio/video files created.
- (f) Throughout the officer’s shift or at the end of the officer’s shift, recorded video files shall be given a classification code and the officer should ensure the auto labeling process assigned the appropriate corresponding incident number.
- (g) Activity not requiring an assigned incident number can be classified as “citizen contact, non-evidentiary video, or training demo” without an incident number being assigned.
- (h) At the end of the officer’s shift, the officer shall return the BWC to the evidence.com dock (ETM) to upload the digitally encrypted data to the web-based storage facility and recharge the battery. Officers are responsible for ensuring the BWC is functioning with a GREEN battery status.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

420.6 ACTIVATION OF BODY WORN CAMERA AND AUDIO RECORDERS

Uniformed sworn personnel and CSOs assigned a BWC should record all investigative, enforcement, and call for service contacts. Officers working non-uniform assignments are encouraged to record events when practical. A BWC should be activated when an officer is engaged in emergency vehicle operation.

Circumstances when a BWC may not be activated, include, but are not limited to:

- (a) Officer safety prohibits due to a sudden assault or unexpected altercation.
- (b) Speaking with an informant or community member providing information who request deactivation of BWC prior to providing information.
- (c) A health care provider is discussing medical issues with a patient.
- (d) 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.

Appleton Police Department

Policy Manual

Body Worn Cameras and Audio Recorders

- (e) While debriefing with other officers regarding specific details or tactics on a call for service.
- (f) When developing a tactical plan or creating a safety plan for a victim.
- (g) Personnel are prohibited from using a BWC for personal use.
- (h) Any other incident where the officer can articulate the necessity and totality of the circumstances that led to not activating the BWC.

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording (or to mute the audio recording) should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording. Audio redaction may take place before releasing recorded footage when one of the above conditions applies; or, when the protection of sensitive information is deemed necessary by staff fulfilling records requests.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

420.6.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing, other breaks from direct participation in the incident, or as outlined in the "Activation of Body Camera and Audio Recorders" policy, noted above.

420.6.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Wisconsin law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Wis. Stat. § 968.31(2)(b)).

Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

420.6.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

Body Worn Cameras and Audio Recorders

420.7 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of a supervisor. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

420.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Public Records Law (Wis. Stat. § 19.31 et seq.).

420.9 RETENTION OF RECORDINGS

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule but in no event for a period less than 120 days (Wis. Stat. § 165.87).

Appleton Police Department

Policy Manual

Body Worn Cameras and Audio Recorders

420.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

420.9.2 EXCEPTIONS TO RETENTION REQUIREMENTS FOR BODY-WORN CAMERAS

Exceptions to the 120-day retention period for body-worn cameras are as follows (Wis. Stat. § 165.87):

- (a) Recordings should be retained until the final disposition of any investigation, case, or complaint to which the recordings pertain to any of the following:
 - 1. Death or actual or alleged physical injury to any person in the recording
 - 2. An encounter resulting in custodial arrest
 - 3. A search during a temporary detention pursuant to Wis. Stat. § 968.25
 - 4. An encounter resulting in the use of force except when the only use of force involves the use of a firearm to euthanize an injured wild animal
- (b) Recordings used in any criminal, civil, or administrative proceeding may not be destroyed except upon a final disposition from the court or hearing officer after a determination the recordings are no longer needed, or by an order from the court or hearing officer.
- (c) Recordings may be retained for a period beyond 120 days if a request or directive to preserve the recordings is made before the expiration of that time period by an officer from this department or another law enforcement agency, member of a board of fire and police commission, prosecutor, defendant, or a court.

420.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy and the "BWC Files of Significant Use of Force Incidents" policy, noted below, for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

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.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation, or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.

Appleton Police Department

Policy Manual

Body Worn Cameras and Audio Recorders

- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court (Wis. Stat. § 165.87(3)).

420.11 BWC FILES OF SIGNIFICANT USE OF FORCE INCIDENTS

As soon as practicable after the incident is under control, a supervisor shall direct the collection and upload of all known BWC files from the following types of incidents:

- (a) All incidents involving the use of deadly force against a person.
- (b) All incidents involving the use of force by an officer that results in great bodily harm or death to a person.
- (c) All BWC files from all officers involved in motor vehicle pursuits that result in great bodily harm or death to a person.
- (d) Any other incident as directed by the Chief of Police or his/her designee.

An officer involved in the significant use of force will be allowed to view their BWC video, but only after providing an initial verbal statement to investigators. After providing an initial verbal statement, the officer will be allowed to view the BWC and complete a written report and/or provide their final statement. Exceptions to this restriction may include, for example, when viewing the files is immediately necessary to identify a potential suspect(s) and/or witnesses. If this is necessary, a person not directly involved in the incident should view the files.

No citizen witness to these incidents shall view any BWC files from the incident prior to being interviewed about the incident, without an authorization from the Chief of Police or his/her designee.

420.12 TRAINING

All officers using a body worn camera device shall receive training in the use of the equipment. The training will include techniques that will help to ensure an incident is accurately documented and properly stored.