

<b>LAKE MILLS POLICE DEPARTMENT POLICY</b>		<b>TITLE: Video Recording &amp; Body Cameras</b>	
<b>ISSUE DATE:</b> 02/13/09	<b>LAST UPDATE:</b> 03/16/2020	<b>SECTION:</b> Operational	<b>FILE NAME:</b> Video Recording
<b>POLICY SOURCE:</b> Chief of Police		<b>TOTAL PAGES:</b> 7	
<b>SPECIAL INSTRUCTIONS:</b> Amends: 2/13/09, 02/10/12, 06/01/2018 <b>TRAINING GUIDE:</b> None <b>REFERENCED POLICIES:</b> Open Records, Locker Room. Investigation. Juvenile			

## I. PURPOSE

To promote a standard operating procedure for the use of video equipment as an evidence gathering tool in cases of intoxicated drivers, criminal arrests and other incidents where it would be prudent to gather video evidence.

To enhance this agency's ability to review probable cause for arrest, arrest procedures, officer and suspect interaction, and evidence for investigative purposes.

To ensure the primary intended use of the digital recording equipment is to capture custodial interrogations in the digital format whenever possible.

## II. POLICY

Mobile Video Recording (MVR), Interview Recording (IR) equipment, and Body Cameras (BC) has been demonstrated to be of value in the prosecution of traffic violations, criminal offenses, as well as in training. In order to maximize the utility of this equipment in these and related areas, officers shall follow the procedures for all equipment as set forth in this policy.

## III. PROCEDURES

### A Operating Procedures Video Recording

1. Officers are responsible for maintaining the equipment installed in their vehicle and body cameras according to manufactures recommendations.
2. At the beginning of each shift, officers shall determine whether their MVR and BC equipment is working satisfactorily and shall bring any problems to the attention of their immediate supervisor as soon as possible.
3. Should the MVR not be functioning in the officers assigned squad, the officer should take a different squad with a working MVR.

C. MVR equipment will automatically activate when the vehicle's rear emergency lights are in operation. The equipment may be manually activated by use of the

- C. MVR equipment will automatically activate when the vehicle's rear emergency lights are in operation. The equipment may be manually activated by use of the remote feature on their wireless microphone, or by hitting record on the unit. MVR equipment may be manually deactivated during non-enforcement activities such as when protecting accident scenes from other vehicular traffic.
  - 1. Whenever equipment is manually deactivated, officers shall properly document the reasons for this action if an incident report is completed and it has some bearing on the case.
- D. Officers will ensure that the equipment is activated to record traffic stops or other enforcement actions. In doing so they will ensure that:
  - 1. The video recorder is positioned and adjusted to record events.
  - 2. The MVR is not deactivated until the enforcement action is completed, and
  - 3. Their wireless microphone is activated in order to provide narration with the video recording. The wireless microphone may be turned off only for the purpose of talking confidentially with another officer but shall be turned on immediately after.
- E. Officers shall also use their MVR equipment to record:
  - 1. The actions of suspects during interviews, when undergoing field sobriety tests or when placed in custody if the recording would prove useful in later judicial proceedings; and
  - 2. The circumstances at crime and accident scenes or other events when it is determined to be necessary to document items of evidentiary value, and record the confiscation of contraband.
- F. Officers may use the alternate interior microphone when suspects are in the back seat of the squad car, remembering that this will override the wireless microphone on the officer's person.
- G. Officers will note incident, arrest and related reports when video/audio recordings were activated during the incident in question.

## VI. BODY CAMERAS (BC)

- A. All officers and supervisors will be assigned a body camera to wear while working in a patrol function. Cameras need not be worn:
  - a. To training.
  - b. Meetings.
  - c. Community outreach events.
  - d. As determined by the Chief or on-duty supervisor.
- B. Officers will have a working knowledge of their BC.

- 1. General usage and error messages
- 2. Downloading and errors potentially associated with that.
- 3. Should the Officer BC not be working and they will

2. Downloading and errors potentially associated with that.
  3. Should an Officers BC not be working properly they will notify a supervisor, and take another BC from an officer who is not on duty.
  4. While not on-duty Officers will store their body camera in their cubby in the turnout room and insure that it is properly plugged in to charger when not in use. Staff with offices may store their BC in their office
- C. Officers will activate their body cameras on all complaints and can only turn them off when;
1. Complaint is completed
  2. Instructed to do so by a supervisor
  3. During sidebar conversations with LE partners to discuss strategies away from suspects, witnesses and complainants.
4. When requested to by the complainant or suspect but only when:
- a. 972.115(2)(a)1. “The person refused to respond or cooperate in the interrogation if an audio or audio and visual recording was made of the interrogation, so long as a law enforcement officer or agent of a law enforcement agency made a contemporaneous audio or audio and visual recording or written record of the subject's refusal.”
  - b. The officer is confident the unrecorded conversation will not be unethical.
  - c. The information gained through complying with the request will be of significant value to the investigation.
  - d. The nature of the contact turns from unknown to public relations contact. Example: Officer is flagged down by someone and makes contact with camera activated. Subject explains they are a retired police officer and wants to talk shop and get recommendations for a place to eat. Once it is ascertained no criminal investigation will occur, the camera can be shut off.
- D. Non Use
1. Restrooms (unless the complaint is occurring there)
  2. School Walk-thrus
  3. Discussions with children and teachers
  4. Community relations events
  5. Discussion with partners (Fire, EMS, other Agencies, Human Services PAVE, Probation Parole, and School Officials)
  6. At any time a Non-Use situation can turn into a usage situation. Officers need to be diligent to determine when the situation changes. Example: While at a fire scene attempting to ascertain an investigative strategy with a fire fighter, the officer realizes the fire fighter may be intoxicated. The camera should be turned back on.
  7. In the event of extended recording possibilities, if there is down time during an event (Emergency Detention as an example) officers may turn

7. In the event of extended recording possibilities, if there is down time during an event (Emergency Detention as an example) officers may turn off the camera to ensure battery life and recording space while staying in the presence of the suspect. (Example, suspect is asleep) Any time something occurs relating to the case, the officer shall turn the BC back on.

## VI. INTERVIEW ROOM RECORDINGS

- A. Officers shall record all interviews, custodial interrogations, juvenile interviews, complaints, or any other time someone is in the interview rooms for law enforcement business.
- B. Officers shall record from the time they enter the interview room until the time they leave the interview room.
- C. Officers should consider using BC in conjunction with IR on major cases.

## IV. VIDEO PRESERVATION, RELEASE AND REDACTION

- A. All video will be maintained for 120 days if not needed for court proceedings. Video used in prosecution of cases will be maintained for 6 months after all cases are adjudicated.
- B. Copies of individual incidents will be provided in accordance with the open records law after request and payment has been received. (See Open Records policy)

1. Redaction will be done at the discretion of the records release personnel using the balancing test and in accordance with the Open Records Policy. Additional consideration will be given as follows:

- a. It shall be the policy of this department 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.

- b. It shall be the policy of the LMPD to maintain the privacy of a record subject who is in a location

- b. It shall be the policy of the LMPD 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.
- c. If a requester believes that an authority has improperly made a decision to redact or deny access to data under subd. a. or b 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)

- C. Review/replay tapes if necessary for report writing or prior to court testimony. Review/replay of video will be done through a password protected arrangement for the interview room, or through a supervisor. Squad camera video will be accessible to all officers.
- D. Officers will be encouraged to inform their supervisors of any videotaped sequences that may be of value for training purposes.
- E. Officers shall not view videos of other officers unless directed to by a supervisor.
- F. Officers will fill out a video request form when they feel the video may be needed for court purposes or any reasons listed under G below. The Chief's designee will be responsible for downloading the video onto a disk and putting the disk into evidence for the officers.
- G. Under WI statutes 165.87 retention beyond 120 days may occur in the following instances:
  - 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

3. A search during an authorized temporary questioning as provided in WI statute. 968.25. aka "Terry Stop"
4. An encounter that included the use of force by a law enforcement officer, except if the only use of force was the use of a firearm to dispatch an injured wild animal.
  - (a) Retention beyond the period 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.
  - (b) 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.
5. Data cannot be destroyed after the receipt of an open records request. Except as provided by law.

## V. SUPERVISORY RESPONSIBILITY (WILEAG 6.1.9.2)

- A. Staff who supervise officers equipped with all video equipment will ensure that:
  1. All officers are properly trained in the use of all systems.
  2. All officers follow established procedures for the use and maintenance of all video equipment, handling of video/audio recordings and the completion of appropriate video documentation;
  3. Repairs and replacement of damaged or non-functional video equipment is performed.
  4. That security and access for officers is limited to user only, and does not allow for administrative ability to delete or alter video.
    4. Only the Chief's designee will have administrative rights to redact video as necessary for Open Records requests.
    5. On a yearly basis this policy will be reviewed with all department members who wear body cams or are involved in the retention, destruction or release of video.
  6. This policy will be displayed on the department website.

