

<b>DIRECTIVE 1004</b>	<b>Body Worn Cameras</b>
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**Effective Date: 08-01-2017**

**I. PURPOSE**

The Leech Lake Police Department has equipped law enforcement personnel with Body Worn Camera (BWC) systems. The primary purpose of using BWCs is to capture evidence arising from police-citizen encounters. In addition, this directive provides members of The Leech Lake Police Department with guidelines for the use, management, access, storage, retrieval, and retention of audio visual media recorded by BWC systems. While this technology allows for the collection of valuable information, it raises many questions about balancing public demands for accountability and transparency with the privacy concerns of those persons being recorded. In deciding what to record, this directive also reflects a balance between the desire to establish exacting and detail requirements and the reality that officers must attend to their primary duties and safety of all concerned, often in circumstances that are tense, uncertain, and rapidly evolving.

**II. POLICY**

It is the directive of The Leech Lake Police Department to authorize and require the use of department issued BWCs as set forth below, as required by Minnesota Statute § 626.8473, Subd. 3 and to administer the resulting data as provided by law. The primary purpose of using the BWCs is to capture evidence and accurately document police-citizen encounters.

**III. SCOPE**

This directive governs the use of BWCs by members of The Leech Lake Police Department in the course of their official duties. The chief or chief's designee(s) may supersede this directive by providing specific instructions for BWCs use to individual officers, or providing specific instructions pertaining to particular events or classes of events, including but not limited to: political rallies and demonstrations. This directive does not govern the use or surreptitious recording devices used in investigative or undercover operations.

**IV. DEFINITIONS**

- A. *Activate*: Any process that causes the BWC system to transmit or store audio-visual signals.
- B. *Audio Recording*: Any media that capture and records audio signals.

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- C. *Body Worn Camera (BWC):* A video recording system, defined in Minnesota Statute § 13.825, Subd. 1(b)(1), that is typically utilized by Law Enforcement to record their interactions with the public or gather video footage at crime scenes.
- D. *Law Enforcement Operator (LEO):* Primarily a licensed peace officer including all uniformed patrol officers, Field Training Officers, narcotics investigators, general crime investigators, School Resource Officers, Conservation Officers, Conservation Cadet's, Community Service Officers, and may include non-licensed representatives of The Leech Lake Police Department who are authorized, trained, and assigned to operate BWC equipment.
- E. *Link camera feature:* Refers to the ability to activate the BWC through a single activation trigger.
- F. *MGDPA:* The Minnesota Government Data Practices Act, Minnesota Statutes Chapter §13.01, et seq.
- G. *BWC Administrator:* A sergeant/supervisor who assigns, tracks and maintains BWC equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor, and prepares for the biannual audit controls user rights and access, also tasked with training officers with the proper use of BWCs.
- H. *BWC Technician:* Personnel certified or trained in the operational use and repair of BWCs, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures. Responsibilities include; reproduction of recorded data and maintain dissemination records regarding disclosure of data in accordance with Minnesota Statutes §13.82 and §13.825. Maintain an inventory of BWC data on reference server and purged in accordance with data retention directive (complies with Minnesota Statute §13.817 Retention of Data and §13.825 Recording Device) for the BWCs.
- I. *Official duties:* For the purposes of this directive, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

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- J. *Property and Evidence Technician:* Personnel certified or trained in receiving and storing evidence and property, maintaining property inventory reports with proper “chain of custody” notation including any and all action associated with the property or evidence.
- K. *Recorded Media:* Audio-visual signals that are recorded or stored on the BWC and Server.
- L. *Smart Device:* A smart device is a device that is digital, active, computer networked, is user reconfigurable and that can operate to some extent autonomously. Devices that fall into this category are Smartphones and tablets.
- M. *Unintentional recorded footage:* Is a video recording which results from an officer’s inadvertence or neglect in operating the officer’s BWC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to: recordings during a vehicle check, recordings made in locker rooms, restrooms, and recordings made while officers are engaged in conversations of a non-business, personal nature with the expectation that the conversation was not to be recorded.

### **V. PROCEDURE**

- A. BWC Operational Objectives – The Leech Lake Police Department has adopted the use of BWCs to accomplish the following objectives:
  - 1. To document statements and events during the course of an incident.
  - 2. To enhance the LEO’s ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
  - 3. To preserve visual and audio information for use in current and future investigations.
  - 4. To provide a tool for self-critique and field evaluation during LEO training.
  - 5. To enhance the public trust by preserving factual representations of LEO-citizen interactions in the form of recorded media.

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6. To assist with the defense of civil actions against LEO's and the Leech Lake Reservation.
- B. LEO Responsibilities – LEO safety shall be the primary consideration for the use and activation of the BWC system. LEO's that are issued a BWC will wear the BWC as part of their uniform in the manner specified at the time of training. Inspection and general maintenance of BWC equipment shall be the responsibility of the LEO to whom the BWC is assigned. LEO's should periodically test the BWC system operation in accordance with manufacturer specification and department operating procedures and training, at the discretion of The Leech Lake Police Department. If the BWC is malfunctioning, the LEO shall as soon as reasonably possible notify a supervisor. If any BWC system is damaged or stolen, the LEO shall, as soon as reasonably possible, notify a supervisor. The LEO will download data within the following timelines:
    1. Immediately after a critical incident or use of force incidents.
    2. Immediately for pending follow ups or active investigations.
    3. Immediately upon requests of the supervisor.
    4. Prior to end of an ending shift rotation.
  - C. Extra-duty employment -- The LEO's that are issued a BWC will wear the BWC as part of their uniform while engaging in extra-duty employment. Due to the unique demands of some extra-duty jobs a LEO wearing a BWC while engaged in extra-duty employment is not required to activate the BWC for every contact made. However, such officer shall be expected to activate the BWC if a situation or incident occurs which would otherwise require activation, when safe to do so. The BWC shall not be worn while LEO's are engaged in outside agency employment or non-duty employment.
  - D. BWC Operating Procedures – The BWC may be activated either automatically or manually by the LEO.
  - E. Required Activation of the BWC – This directive is not intended to describe every possible situation in which the BWC system may be used, although there are many situations where its use is appropriate. A LEO may activate the system at any dispatched call, on view or contact in which its use is appropriate. It is not possible to capture images of the

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incident due to conditions or the location of the camera in some circumstances. However, even when the incident may be outside video range, the LEO is encouraged to activate the BWC to capture the audio portion of the incident. An officer shall activate the BWC system, if practical and without compromising the safety of the officer or the public, in the following circumstances:

1. Traffic stops (to include, but not limited to traffic violations, stranded motorist assistance and all crime interdiction stops);
2. Priority responses;
3. Vehicle pursuits;
4. Arrests;
5. Vehicle searches;
6. Physical or verbal confrontations;
7. Use of force;
8. Prisoner transports;
9. Crimes in progress;
10. Taking a statement or information for proper purposes; or
11. Any situation or incident that the officer, through training and experience, believes should be audibly and/or visually preserved.
12. Testing of the BWC to ensure adequate functioning of the recording device prior to each shift.

**BWC equipment shall be activated in these circumstances even if the in-squad system is activated, provided it is safe for the officer to do so.**

- F. Cessation of Recording – Once activated, the BWC system shall remain on until the incident has concluded unless:
1. The officer does not reasonably believe that activation will result in the loss of critical evidence;
  2. Deactivation is reasonable and necessary to protect the safety of the officer or others; or

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3. Deactivation is approved or ordered by a supervisor or investigator.
4. For purpose of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and witnesses and victims have been interviewed. Recording may be temporarily paused to exchange information with other LEO's. Recording may cease during non-enforcement activities such as waiting for a tow truck or a family member to arrive, protecting accident scenes or in other non-enforcement situations.

### G. Advisement about Recording

1. Private citizens do not have a reasonable expectation of privacy when talking with police officers during the scope of an officer's official duties, even when the contact is in a private residence. Therefore, officers are not required to give notice they are recording. However, if asked, officers shall advise citizens they are being recorded.
2. Officers are not required to initiate or cease recording an event, situation or circumstance solely at the demand of a citizen.

### H. Prohibited Recordings

1. Communications with other LLTPD police personnel without permission of the Chief Law Enforcement Officer (CLEO). This does not apply to officers making recordings as required in section 5 of this directive.
2. Encounters with undercover officers or confidential informants.
3. BWCs shall not be utilized for non-work related activities.
4. BWCs shall not be utilized to record in areas or activities such as pre-shift conferences, department meetings, counseling or coaching sessions with supervisory personnel, locker rooms, break rooms, or other activities not related to criminal investigations.
5. Officers should not record informal encounters with members of the public.
6. Patient Privacy – Officers utilizing BWCs shall not record patients during medical or psychological evaluations by a doctor or similar professional during treatment, unless required for evidentiary

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criminal investigation purposes. (e.g., blood draws for investigation purposes) When recording in hospitals and other medical facilities, officers shall avoid recording persons other than suspect(s).

- I. Supervisor Responsibilities
  1. At least once per month, supervisors will randomly review BWC recordings made by each officer they supervise to ensure the equipment is operating properly and officers are using the device properly in accordance with directive and to identify any performance areas in which additional training and guidance is required. Supervisors shall document the date of their review and the name of each officer whose video footage was reviewed. Sergeants and commanders will submit documentation of their review to their respective command level supervisor. Any noted non-compliance with the departmental directive pertaining BWC use shall also be reported to the Chief of Police.
  2. At reasonable intervals, supervisors should validate that:
    - a) BWC directives and procedures are followed
    - b) Logs reflect the proper chain of custody at property
    - c) Will create a "Special Detail ICR" on a quarterly basis and review four recordings to assure subordinates are recording and labeling as required per this directive. These findings will be forwarded to the next LEO on the Chain of Command.
  3. When an incident arises requiring the immediate retrieval of the recorded media (e.g., serious crime scenes, LEO-involved shootings, department-involved collisions), a supervisor should respond to the scene and ensure recorded media is secured in accordance with department directive. The media shall be processed and retained in accordance with current procedures for recorded media.
- J. Classification of BWC Data – Nothing in this directive shall be interpreted as changing the underlying classification of data collected by the BWC systems. The classification of data collected by the BWC systems will need to be determined on a case basis. The factors that will determine the classification include the specific facts and circumstances surrounding

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the data, the application of the relevant directives and procedures as well as application and interpretation of the MGDPA and other laws.

### K. Access to BWC Data

1. All recording media, recorded images and audio recordings are the property of the Agency and Leech Lake Band of Ojibwe. Dissemination outside of the Agency, or Leech Lake Band of Ojibwe, is strictly prohibited except to the extent permitted or required under Minnesota Law, and Government Data Practices Chapter 13.
2. Access to BWC data will be determined in a manner consistent with the Agency and Leech Lake Band of Ojibwe, or other applicable law.
3. To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the department BWC supervisor. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.
4. Recordings may be reviewed in any of the following situations:
  - a) For use when preparing reports or statements;
  - b) By a supervisor investigating an official complaint;
  - c) By a supervisor to assess LEO performance;
  - d) To assess proper functioning of a BWC system;
  - e) By department investigators assigned to related criminal investigation, or after approval of a supervisor, for official investigations;
  - f) By a LEO who is captured on or referenced in the video or audio data and reviews and uses the data for any propose relating to his/her employment;
  - g) By court personnel through proper process via search warrant, subpoena, court and or for prosecutorial purposes.
  - h) Recordings may be shown for staff or public safety training purposes. If an involved LEO objects to showing a recording, his/her objection will be submitted to the CLEO to determine if

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the training value outweighs the LEO's objection. During the Field Training Officer Phase of new LEO's, the training officer may review footage with the trainee for training purposes.

- i) An officer is entitled to access audio and video data: derived from BWC equipment issued to him/her; in which his/her voice or image appears; when reasonable and necessary for the officer to perform the essential functions of his/her job; or to defend against allegations of substandard performance or misconduct. Except when the officer is involved in a critical incident resulting in substantial bodily harm, great bodily harm or death, viewing of any prior to giving a statement will be at the discretion of the investigating agency.
- j) An officer shall not make a copy of any audio or video data without the prior approval of a supervisor.
- k) Supervisors shall not access or review audio or video data involving an employee under their supervision for the purpose of surveillance of the employee or initiating disciplinary action against the employee. However, data collected by the BWC may be used as evidence relating to a formal complaint of misconduct made against an officer in accordance with The Leech Lake Tribal Police Department Manual Chapter 11 Professional Conduct-General Conduct of Officers.
- l) The Department shall restrict, by password protection, access to all audio and video data and shall maintain an electronic record of the date, time, and person with regard to each access data.
- m) Officers shall refer members of the media or public seeking access to BWC to The Leech Lake Police Department, "Attention Records." The records department supervisor shall process requests in accordance with the Minnesota Government Data Practice Act Chapter 13 and any other governing laws. In particular:
  - (1) An individual shall be allowed to review recorded BWC data about their selves and other data subjects in the recording, but access shall not be granted:

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- (a) While the collected or created data is part of an active investigation.
  - (b) To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minnesota Statute §13.82, Subd. 17.
- (2) Unless the data is part of an active investigation, an individual data subject shall be provided a copy of the recording upon request, but subject to the following guidelines on redaction:
  - (a) Data on other individuals in the recording who do not consent to the release must be redacted.
  - (b) Data that would identify undercover officers must be redacted.
  - (c) Data on other officers who are not undercover, and who are on duty and engaged in the performance of official duties may not be redacted.
- n) Other authorized disclosures of data- Officers may display portions of BWC footage to witnesses necessary for purposes of investigation as allowed by Minnesota Statute §13.82, Subd. 15, as may be amended from time to time. Officers should generally limit these displays to protect against incidental disclosure could involve; for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio, or playing the audio but not displaying video. In addition:
  - (1) BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.
  - (2) BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.
- o) Employees desiring to view any previously uploaded or archived BWC recording should submit a request in writing to their immediate supervisor.

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- p) In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.
- L. Documenting BWC Use – If any incident is recorded with the video or audio system, the existence of that recording shall be documented in the LEO’s report. If a citation is issued the LEO shall make a notation on the records copy of the citation indicating that the incident was recorded.
- M. Recording Media Storage and Retention – Once submitted for storage, all recorded media will be labeled by referencing the complete ICR number assigned to the incident and stored in a designated secure area. This information will also be referenced in the “Evidence Section” of the Agency records management system. All recorded media that is not booked in as evidence will be retained in compliance with the established records retention schedule or as required by the rules of evidence, unless a specific request is made to store them for a longer period.
- N. Administering Access to BWC
  1. Under Minnesota Law, the following are considered data subjects for the purpose of administering access to BWC data:
    - a) Any person or entity whose image or voice is documented in the data.
    - b) The officer who collected the data.
    - c) Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording.
  2. BWC data is presumptively private- BWC recording are classified as private data about the data subjects unless there is a specific law that provides differently, as a result: as is BWC data pertaining to businesses or other entities.
  3. Confidential data- BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the “private.”
  4. Public data - Except for data defined in subdivision 2, 3 and 6 of Minnesota Statute §13.82, BWC data is considered criminal investigative data under Minnesota Statute §13.82, Subd. 7. As such,

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all BWC data is considered confidential or protected nonpublic while the investigation is active. Data that is part of an inactive investigation which are clearly offensive to common sensibilities are classified as private or nonpublic, provided that the existence of the data is disclosed to any person requesting access to the investigative data. The following BWC data is public subject to the timeline identified in Data Retention Period.

- a) Any data created that is not part of an active criminal investigation.
- b) Inactive investigative data unless:
  - (1) The release of the data would jeopardize another ongoing investigation.
  - (2) The release of data would reveal the identity of individuals protected under Minnesota Statute §13.82, Subd. 17.

### O. Data Security Safeguards

- 1. BWC data will be uploaded through an approved vendor software platform to a secure server maintained by The Leech Lake Tribal Police Department's approved MIS/vendor.
- 2. Personally-owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view agency BWC data.
- 3. As required by Minnesota Statute §13.825, Subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program.

### P. Data Retention Periods for Recorded Media

- 1. All BWC data shall be retained for a minimum of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.
- 2. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick or injured, or dangerous, must be maintained for a minimum period of one year.

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3. Certain kinds of BWC data must be retained for one year after disposition:
    - a) Data that documents the use of deadly force by a peace officer, or force of sufficient type or degree that warrants a use of force report or supervisory review.
    - b) Data documenting circumstances that have given rise to a formal complaint against an officer
  4. Subject to part F (below), all other BWC footage is classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
  5. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- Q. Disposition
1. Records technicians and supervisors/sergeants are responsible for clearing of evidence items.
  2. Evidence may be cleared when:
    - a) Prosecution is complete and the applicable appeal time has lapsed.
    - b) The statute of limitations has expired.
    - c) The complainant has provided a written request to close their case.
  3. The LEO, immediate supervisor, or Chief may prevent automated deletion by changing the category of the media at any time prior to deletion.
  4. Any media related to an internal investigation of a LEO, or from an incident in which a signed complaint is made regarding a LEO, shall be retained for a minimum of one year.

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5. Destruction of data in accordance with this directive does not alter the duty to defend and indemnify set forth in Minnesota Statute §466.07.
- R. System Operational Standards
1. The BWC system shall be configured to minimally record 30 seconds prior to an activation (if system allows it).
  2. LEO's using the digital transmitter that are individually synchronized to their individual BWC shall activate both audio and video recordings when responding in a support capacity in order to obtain additional perspectives on the incident scene.
  3. With the exception of law enforcement radios or other emergency equipment, other electronics devices should not be used within the law enforcement vehicle in order to intentionally interfere with the capability of the BWC system to record audio data.
  4. LEO's shall not intentionally erase, alter, reuse, modify or tamper with BWC recordings. Only a supervisor or investigator may erase and re-issue previously recorded media in accordance with this directive. The officer shall not intentionally block the BWCs audio or visual recording functionality to defeat the purpose of this directive.
  5. Officers who have been issued BWCs shall operate and use them in a manner consistent with this directive. Officers may use only department issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.
- S. Property and Evidence Technician Responsibilities – The property and evidence, is responsible, by records technicians and supervisors:
1. Retrieving, storing, erasing and duplicating of all recorded media.
  2. Collecting all completed media for oversight. Once collected the property and evidence:
    - a) Ensures it is stored in a secured location with authorized controlled access.

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- b) Makes appropriate entries regarding the location of media that has been distributed.
  3. Erasing the media:
    - a) Pursuant to a court order.
    - b) In accordance with established records retention directives.
  4. Ensuring that an adequate supply of recording media is available.
  5. Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.
  6. Will stay abreast of changes in law, directive, and technology and will recommend changes to the BWC directive when applicable.
  7. In case of a system malfunction officers are to notify supervisors as soon as reasonable. Have replacement as soon as possible.
  8. Server will be stored in a secure area. Copies created for investigative purpose only, copies will not be for personal use.
- T. Copying and Releasing Digital Evidence
  1. Digital evidence captured by BWCs shall be treated as official records and handled pursuant to existing department directives procedures and per MGDPA Chapter 13.
  2. To obtain records these requests shall be made to the department records clerk for completion.
  3. Prior to release digital recorded media is subject to MGDPA Chapter 13, and redaction software will be provided by The Leech Lake Tribal Police Department. The records clerk will be responsible for the redaction of digital media and or anyone assigned and has received training.
  4. All requests for release of digital BWC data shall be subject to a fee of \$25.00 per request, or at the discretion of Chief of Police.
- U. Training

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1. Users of the BWC system shall successfully complete training of WATCHGUARD BWC System prior to being deployed in operational settings. This training will be required of all LEO's as described in the definitions section, newly hired field trained officers will be required to receive training as part of the Field Training Officer Manual.
2. It is recommended that the operation of BWC systems by new employees is assessed and reviewed no less than biweekly or until the new employee demonstrates a working knowledge of the BWC system and the applicable directives and procedures.