

# **BIG LAKE POLICE DEPARTMENT**

## **In-Car Camera Policy**

**Patrol 300-4**

**May 2016**

### **I. Purpose**

The primary purpose using of In-Car Cameras (ICCs) is to capture information within the range of the recording system that has evidentiary value.

### **II. Policy**

It is the policy of this department to authorize and require the use of ICCs as set forth below.

### **III. Scope**

This policy governs the use of ICCs in the course of official duties. It does not apply to the use of Body-Worn Cameras (BWCs) or to surreptitious recording devices in undercover operations. The chief or chief's designee may supersede this policy by providing specific instructions for the use of ICCs by individual officers or for specific events or assignments.

### **IV. Definitions**

The following phrases have special meanings as used in this policy:

- A. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- B. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.
- C. **Law enforcement-related information** means information captured or available for capture by use of a ICC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- D. **Evidentiary** value means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.

- E. **General** citizen contact means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist by providing directions or summoning a wrecker.
- F. **Adversarial** means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.
- G. **Unintentionally Recording** is a video recording that results from an officer's inadvertence or neglect in operating the officer's ICC, provided that no portion of the resulting recording has evidentiary or administrative value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.
- H. **Official duties**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.
- I. **Traffic/Pedestrian Stop**, for the purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency, and has undertaken a stop of this nature.

## V. **Use and Documentation**

- A. Officers may use only department-issued ICCs and recording devices in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.
- B. Officers shall operate ICC equipment consistent with this policy. Officers shall perform daily function checks of the ICC systems in their assigned vehicle, and shall promptly report any malfunctions to the officer's supervisor.
- C. Officers must document ICC nonuse as follows:
  - 1. Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report or *[CAD record/other documentation of the event]*.

Supervisors shall review these reports and initiate any corrective action deemed necessary.

## **VI. General Guidelines for Recording**

- A. The Department will configure ICCs to record when the vehicle's emergency lights (and/or) siren are activated.
- B. Officers shall record all transports occurring in the officers' own vehicle.
- C. Officers have discretion to record or not record general citizen contacts.
- D. Officers have no affirmative duty to inform people that an ICC is being operated or that they are being recorded.
- E. Once activated, the ICC should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The officer having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. Officers shall state the reasons for ceasing the recording on camera before deactivating their ICC. If circumstances change, officers shall reactivate their ICCs as required by this policy to capture information having evidentiary value.
- F. Officers shall not intentionally mute the ICC's audio or block the view of any ICC to defeat the purposes of this policy.
- G. Notwithstanding any other provision in this policy, officers shall not use their ICCs to record other agency personnel during non-enforcement related activities, such as to make audio recordings during meal breaks or other private conversations, unless recording is authorized as part of an administrative or criminal investigation.
- H. Officers shall not intentionally edit, alter, or erase any ICC recording unless otherwise expressly authorized by the chief or the chief's designee.

## **VII. Special Guidelines for Recording**

Officers may, in the exercise of sound discretion, determine:

- A. To use their ICC to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- B. To use their ICC to take recorded statements from persons believed to be victims of and witnesses to crimes, and persons suspected of committing

crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

In addition,

- C. Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. Officers may activate their ICCs when dealing with individuals believed to be experiencing a mental health crisis or event. ICCs shall be activated as necessary to document any use of force and the basis therefor and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental health issue.

## **VIII. Downloading and Labeling Data**

- A. Data will be automatically transferred from the ICC to the departments designated storage location. However, if the officer is involved in a traffic accident, shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's ICC system and assume responsibility for transferring the data from it.
- B. ICC data files shall be labeled at the time of capture or transfer to storage. Personnel should consult with a supervisor if in doubt as to the appropriate labeling.
  1. **Evidentiary:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision. Whether or not enforcement action was taken or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property. The recording has potential evidentiary value for reasons identified by the officer at the time of labeling
  2. **Use of Force/Pursuit:** Whether or not enforcement action was taken or an arrest resulted, the event involved the application of force by a law enforcement officer of this or another agency.
  3. **Adversarial:** The incident involved an adversarial encounter.
  4. **Training Value:** The event was such that it may have value for training.
  5. **Unintentionally Recording:** See Definitions, part G. The events or subject matter that was accidentally recorded shall be deleted at the end of the officer's shift.

6. **General:** The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts are not evidence.
  7. **Traffic/Petty Citation:** The recording documents the issuance of a Petty Misdemeanor violation.
  8. **Traffic/Pedestrian Stop:** The recording documents the undertaking of a pedestrian or traffic stop no resulting in charges.
- C. Labeling and flagging designations may be corrected or amended based on additional information.

### **IIX. Access to ICC Data**

- A. All security measures employed by Evidence.com shall be in effect for data management and storage. In addition:
- B. Access to ICC data from city or personally owned and approved devices shall be managed in accordance with established city policy.
- C. Officers may access and view stored ICC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Officers may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident.
- D. Officers may display portions of ICC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, subd. 15, as may be amended from time to time. Officers should limit these displays to protect against the incidental disclosure of individuals whose identities are not public.
- E. Agency personnel are prohibited from accessing ICC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading ICC data recorded or maintained by this agency onto public and social media websites.
- F. Officers shall refer members of the media or public seeking access to ICC data to the Big Lake Police Department Records Division, who will process the request in accordance with the MGDPA and other governing laws. Employees seeking access to ICC data for non-business reasons may make a request for it in the same manner as any member of the public. This provision shall not be construed, however, to permit any conduct that is unbecoming or otherwise prohibited

- G. ICC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.
- H. Prior to release of data, the Records Division shall determine if a file is appropriate for release if it contains subjects who may have rights under the MGDPA limiting public disclosure of information about them. These individuals include:
  - 1. Victims and alleged victims of criminal sexual conduct.
  - 2. Victims of child abuse or neglect.
  - 3. Vulnerable adults who are victims of maltreatment.
  - 4. Undercover officers.
  - 5. Informants.
  - 6. When the video is clearly offensive to common sensitivities.
  - 7. Victims of and witnesses to crimes, if the victim or witness has requested not to be identified publicly.
  - 8. Individuals who called 911, and services subscribers whose lines were used to place a call to the 911 system.
  - 9. Mandated reporters.
  - 10. Juvenile witnesses, if the nature of the event or activity justifies protecting the identity of the witness.
  - 11. Juveniles who are or may be delinquent or engaged in criminal acts.
  - 12. Individuals who make complaints about violations with respect to the use of real property.
  - 13. Officers and employees who are the subject of a complaint related to the events captured on video.
- I. Other individuals whose identities the officer believes may be legally protected from public disclosure.

## **IX. Agency Use of Data**

- A. Supervisors and other assigned personnel may access ICC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.

- B. Nothing in this policy limits or prohibits the use of ICC data as evidence of misconduct or as a basis for discipline.
- C. Officers should contact their supervisors to discuss retaining and using ICC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize ICC data with trainees for the purpose of providing coaching and feedback on the trainee's performance.

## **X. Data Retention**

- A. Evidentiary data shall be retained for the period specified in the General Records Retention Schedule for Minnesota Cities. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable retention period.
- B. Unintentionally recorded footage shall not be retained.
- C. ICC footage that is classified as non-evidentiary, or becomes classified as non-evidentiary, shall be retained for a minimum of *180 days* following the date of capture. If information comes to light indicating that non-evidentiary data has evidentiary value or value for training, it may be reclassified and retained for a longer period.
- D. The department shall maintain an inventory of ICC recordings.