LMCIT Model In-car Cameras Policy

This model policy is offered in Word format so that re-keying for your own use is minimized. Make sure to customize as prompted in the text and delete comments before finalizing the policy as you wish it to be adopted. Where optional provisions are provided, you must choose one of the options, but choosing “option 1,” for example, does not require you to choose “option 1” at every choice point.

This icon marks comments or offers that will help you decide on different possible approaches offered in the policy. Delete them before adopting your customized policy.

*[Italic brackets]* Text marked this way is a placeholder for agency-specific language.

City of *[City Name]*

In-car Cameras Policy

**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.

This model policy was developed following the publication of a model policy on Body-Worn Cameras (BWCs) in June 2015. This model closely parallels the BWC model policy to minimize confusion for end users. Comments by the BWC model policy workgroup are included herein where appropriate.

**Policy**

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

**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.

**Definitions**

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

1. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
2. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.



County agencies will need to modify the policy to meet their own record retention schedule.

1. **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.
2. **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.

“[R]elated civil or administrative proceeding” refers, for example, to implied consent or forfeiture actions arising from an arrest or prosecution. This language seeks to clarify that the policy does not obligate agencies to collect or maintain ICC data solely for use in third-party tort litigation.

1. **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.
2. **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.

This definition is used to identify conflict situations, since they may evolve into more consequential matters or give rise to complaints against officers. Later provisions in this policy require officers to record adversarial encounters. Some members of the Body-Worn Camera model policy workgroup disfavored the term “adversarial,” and agencies may wish to consider other terminology better suited to their communities.

1. **Unintentionally recorded footage** 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.



Unintentionally recorded footage fits within the Records Retention Schedule’s classification of “extraneous” recordings (POL 05830), and may accordingly be disposed of at the end of the officer’s daily shift.

1. **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.

**Use and Documentation**

1. 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.

This provision prohibits officers from using non-agency owned ICCs and recording devices while performing agency-authorized law enforcement activities. The use of non-agency equipment is inconsistent with the employing entity’s obligation to administer data from work-related recordings. See [IPAD Opinion 08-028 (Sept. 29, 2008)](http://www.ipad.state.mn.us/opinions/2008/08028.html).

1. 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.
2. Officers must document ICC use and nonuse as follows:



These provisions are recommended to assure that agencies document and maintain information about: (1) recordings, so that existing ones can be located, linked to a particular case or event, and disclosed by the prosecution as may be required by criminal discovery obligations; and (2) instances of non-recording, when it would be reasonable to expect recordings to exist in the circumstances. Documenting failures to record helps safeguard the agency against allegations that it only uses its cameras when they would show officers in the best light. Different agencies may have different approaches to meeting these objectives in view of their existing records management system and business practices. Some agencies require documentation only when there is *no* ICC video, as it is generally assumed to exist in all other cases.

1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report or *[CAD record/other documentation of the event].*
2. 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.

**General Guidelines for Recording**

**Choose one:**

1. [Option 1] The Department will configure ICCs to record when the vehicle’s emergency lights (and/or) siren are activated.

**OR**

1. [Option 2] Officers shall activate their ICCs for all emergency responses.
2. Officers shall activate their ICCs when anticipating that they will be involved in, become involved in, or witness other officers of this agency involved in a pursuit, stop of a motorist or pedestrian, search, seizure, arrest, use of force, or adversarial contact.

Requiring officers to record all public contacts is a plausible alternative and is simpler and easier to apply. The language recommended here is based on the model policy for Body-Worn Cameras, and is more narrowly tailored so recording is only required in situations likely to result in information with evidentiary value.

**Choose one to complete section B:**

[Option 1]Officers *[shall] [may]* also use their BWCs to record audio from their responses to calls or events that are occurring beyond the view of the camera, such as responding to calls inside homes or buildings. Officers need not remotely initiate recording, however, when reasonably believing themselves to be beyond the transmission range of the system’s wireless microphones.

**OR**

[Option 2] When it is reasonable to expect that the contact will occur outside the camera’s field of view, such as in a home or building or other location distant from the patrol car, officers need not activate their ICCs if the officer is using a BWC or other agency-provided recording device to document the event.

This block presents alternatives for addressing whether agencies will require the use of ICCs to record audio for events taking place in buildings or otherwise beyond the view of the camera. Deciding what to do may depend on whether the agency is using Body-Worn Cameras in addition to vehicle-based systems, whether the ICC can be remotely activated, and the range of the ICCs wireless microphones.

1. Notwithstanding Parts (A) and (B), officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines, part (C)(2) (above).

Officers thrust into sudden emergencies may need to devote their attentional resources to other tasks and challenges before attending to operation of the camera.

1. Officers shall record all transports, and all contacts with members of the public occurring in the officers’ own vehicle.

Agencies should consider recording these events as a safeguard against false allegations and liability, and to document any incriminating statements. The best means of accomplishing this may depend on the technologies the agency is using. While squad-based audio/video systems with rear-facing cameras may be better suited for recording a prisoner’s behavior during transport, the officer’s BWC may capture more of the officer’s interaction with the prisoner at the time he or she is removed from the car and transferred to the custody of another.

1. Officers have discretion to record or not record general citizen contacts.
2. Officers have no affirmative duty to inform people that an ICC is being operated or that they are being recorded.
3. 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.

When cameras get turned off before something happens, it can feed into a narrative that the officers stopped recording in order to hide something. On the other hand, there is likely little value in continuing to record for long periods of time at an accident scene while waiting for it to clear. This section authorizes officers to shut down their recorders when keeping them on would not further the purpose of capturing evidence. It requires that officers simply state their intentions and reasons for doing so while the system is still recording. A statement like, “the action appears to be over so I’ll stop the recording” should usually suffice as a legitimate business reason.

1. Officers shall not intentionally mute the ICC’s audio or block the view of any ICC to defeat the purposes of this policy.

This provision should be read in conjunction with the statement of purpose set forth above, “to capture information within the range of the recording system that has *evidentiary value*.”

Circumstances may arise when it would be appropriate for officers to mute the audio recording functionality of their ICCs, such as when conferring about a tactical situation or arrest decision. This provision is also intended to prohibit intentionally activating other electronic equipment for the purpose of interfering with ICC recording functionality.

1. 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.
2. Officers shall not intentionally edit, alter, or erase any ICC recording unless otherwise expressly authorized by the chief or the chief’s designee.

**Special Guidelines for Recording**

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

1. 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.



This provision is included to ensure that officers are clearly vested with discretion to use their ICCs to capture information having evidentiary value.

1. 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,

1. 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.

**Downloading and Labeling Data**

1. Each officer using an ICC is responsible for transferring or assuring the proper transfer of the data from his or her ICC system to *[specify data storage location]* by the end of that officer’s shift. 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.



Agencies will need to conform this language to their own technologies and business practices. The central idea is that the responsibility for handling or ensuring routine daily transfers of ICC data rests with the officer unless the process is automated or tasked to someone else. However, when the officer is involved in an event that will result in the agency immediately initiating an investigation, then someone else (an appropriate supervisor or investigator) should take over responsibility for collecting and preserving the evidence, including the video evidence from the officer’s patrol car. Doing so will safeguard the integrity of the evidence and protect the officer against allegations of mishandling the ICC data.

1. 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. *[Include any technology-specific instructions for this process; if metadata is not being stored then the information could be documented in a video log or other record.]* As many of the following labels as are applicable to each file:

The labeling process is intended to aid in efficiently making accurate decisions about the retention periods for government data. The categories listed in the policy are based on the Records Retention Schedule, which establishes how long data must be kept based on the subject matter recorded (e.g., whether the recording constitutes evidence and, if so, what kind). However, ICC data storage systems might allow labeling based only on the transaction type (e.g., “traffic stop”), and those descriptors may not be helpful in informing decisions about retention periods. If unable to use the list of labels recommended in the model policy, agencies may nonetheless find the information useful in pointing toward the applicable retention period.

1. **Evidence—criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.

The Records Retention Schedule provides that retention periods for cases that have been charged are based on the status of court proceedings. (Code POL 05840.) For uncharged offenses, retention is based on the statute of limitations for filing charges. (Code POL 05880.) Counties will need to consult their own records retention schedule for guidance.

1. **Evidence—force:** 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.



These recordings must be maintained for six years regardless of the disposition of any related criminal case. (Code POL 05920.)

1. **Evidence—property:** 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.



Evidence/property logs are subject to a one-year minimal retention period. (Code POL 03740.)

1. **Evidence—administrative:** The incident involved an adversarial encounter.



The definition of “adversarial encounter” is intended to trigger the recording of interactions thought likely to result in complaints against an officer or the agency. Video determined to have evidentiary value in any internal investigation is subject to a six-year retention period. (Code POL 05880.) An agency could likely determine to purge recordings of adversarial encounters prior to the expiration of six years if no complaint or investigation ever arises. Counties will need to consult their own records retention schedule for guidance.

1. **Evidence—other:** The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.



Retention will depend on the stated reason for maintaining the data.

1. **Training:** The event was such that it may have value for training.



No minimal retention period exists.

1. **Unintentionally recorded footage**: See Definitions, part G. The events or subject matter that was accidentally recorded shall be documented on a form or in a manner specified by the department.

These recordings may be purged at the end of the officer’s daily shift. (Code POL 05830.) The documentation requirement is intended to maintain integrity of the records system.

1. **Not evidence:** 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.



This category corresponds to two classifications in the Records Retention Schedule that permit disposal of data at the end of the officer’s shift. (Codes POL 05830 and POL 05860.) Recordings labeled as “not evidence” will be stored for the minimum retention period for ICC data specified by the agency.

1. In addition, officers shall flag each file as appropriate to indicate that it contains information about data subjects who may have rights under the MGDPA limiting public disclosure of information about them. These individuals include:

**“Flagging” is intended as a signal to indicate that the file may contain information that should not be released to the public. It is a safeguard to protect potential privacy rights and to protect the agency from liability.

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.
14. Other individuals whose identities the officer believes may be legally protected from public disclosure.
15. Labeling and flagging designations may be corrected or amended based on additional information.

**Access to ICC Data**

1. *[Specify data safeguards to be used in your agency and in connection with the particular ICC technologies being employed.]* In addition:

**Choose one:**

1. [Option 1] Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view ICC data.

**OR**

1. [Option 2] Access to ICC data from city or personally owned and approved devices shall be managed in accordance with established city policy.

These options are intended to accommodate different municipal approaches to the use of personally-owned technologies for business purposes.

**Choose one:**

1. [Option 1] 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.

**OR**

1. [Option 2] 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. Except as provided in the critical incident response policy, 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.

There is no consensus as to whether officers should be allowed to review video before giving statements concerning officer-involved shootings and other very serious events. This section acknowledges the differing viewpoints. It provides that officers should generally have access to video when preparing reports in criminal cases, and also envisions that agencies may develop specific guidelines for review of video in critical incidents.

1. 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.

Protecting 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 but not displaying video.

1. [*Optional]* Agency personnel shall document their reasons for accessing stored ICC data *[in the manner provided within the database]* *[or, specify manner of documentation]* at the time of each access.
2. 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.
3. Officers shall refer members of the media or public seeking access to ICC data to *[the responsible authority/data practices designee]*, 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
4. ICC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

**Agency Use of Data**

**Choose one:**

1. [Option 1] At least once a month, supervisors will randomly review ICC recordings made by each officer to ensure the equipment is operating properly and officers are using the devices appropriately in accordance with policy, and to identify any performance areas in which additional training or guidance is required.

**OR**

1. [Option 2] 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.

The comment to the Body-Worn Camera model policy states: “IACP's model policy provides that supervisors should review random BWC recordings at least monthly to gain one more vantage point on officer performance. But as PERF observes, there is ongoing debate over whether supervisors should do so. While random supervisory review may be consistent with the goal of accountability, officers may see this practice as an expression of mistrust and become resentful. An alternative position is to authorize supervisory review only when concerns arise from a particular encounter or event. The model provides alternative options for agencies to consider in addressing these issues.”

1. Nothing in this policy limits or prohibits the use of ICC data as evidence of misconduct or as a basis for discipline.



This language is based on the Peace Officer Discipline Procedures Act, [Minn. Stat. § 626.84, subd. 10.](https://www.revisor.mn.gov/statutes/?id=626.84)

1. [Optional] This agency will conduct an annual audit to check for the occurrence of unauthorized access to ICC data. Randomized sampling may be utilized for this process, and statistical results of the audit shall be reported *[to the city council] [on the department’s website]*.

The audit process is intended to ensure that unauthorized access to data is not occurring, which could violate the MGDPA and also breach the public trust. Members of the workgroup for the model policy on body-worn cameras expressed hope that voluntary adoption of these accountability measures will forestall more onerous legislative requirements. However, it is unclear whether public sensitivities over ICC data will be as significant, since ICC video is captured mainly along public streets and is not likely to be as “private” as Body-Worn Camera recordings made in homes. An additional consideration is that existing ICC technologies may not readily allow for auditing.

1. 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.

**Data Retention**

1. 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.

County agencies will need to consult their own records retention schedule for guidance.

1. Unintentionally recorded footage shall not be retained.
2. ICC footage that is classified as non-evidentiary, or becomes classified as non-evidentiary, shall be retained for a minimum of *[XX 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.

**The [General Records Retention Schedule for Minnesota Cities](http://www.mcfoa.org/vertical/sites/%7B067FFB58-E3CD-42BA-9FB1-11EFC7933168%7D/uploads/General_Records_Retention_Schedule_for_MN_Cities_-_July_2013.pdf) indicates that agencies shall permanently maintain an inventory of evidentiary audio and video recordings. (POL 05810.) Counties will need to consult their own records retention schedule for guidance.

1. The department shall maintain an inventory of ICC recordings.
2. The department will post information on its website concerning retention periods for ICC video data.