



## Police Department

February 22, 2021

Legislative Commission on Data Practices and Personal Data Privacy  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
State Office Building, Room 72  
St. Paul, MN 55155

Ref: Fairmont Police Body Camera Audit

Greetings,

In accordance with MN 13.825 Sub 9(c), please accept our bi-annual audit for the Fairmont Police Department's Body Worn Camera Program included with this correspondence. The audit covers the time frame August 1, 2018 through August 1, 2020. The audit was conducted by Lynn Lembcke Consulting starting September 18, 2020 and was completed February 22, 2021. It will be presented to our local City Council during a scheduled council meeting on March 8, 2021.

The audit shows one discrepancy related issue. This issue noted three videos deleted outside of our retention schedule during our second month of the program in September of 2018. It was determined that Martin County IT deleted the three videos tagged as "Not Evidence" as part of a software settings test on the server. That issue has been addressed with Martin County who conducts the system maintenance and updates for our shared in-house WatchGuard server at the Martin County Law Enforcement Center in Fairmont.

Please feel free to contact me if there are any issues or further questions.

Respectfully,

A handwritten signature in black ink, appearing to read "MH", with a long horizontal line extending to the right.

Michael Hunter V37  
Chief of Police  
Fairmont Police Department  
[mhunter@fairmont.org](mailto:mhunter@fairmont.org)  
507-238-3178

Via Email and US Postal Service

# INDEPENDENT AUDIT REPORT

Chief Michael Hunter  
Fairmont Police Department  
201 Lake Ave., Suite 199  
Fairmont, MN 56031

Dear Chief Hunter:

An independent audit of the Fairmont Police Department's Portable Recording System (body-worn cameras (BWCs)) was conducted on September 18, 2020. The objective of the audit was to verify Fairmont Police Department's compliance with Minnesota Statutes §§13.825 and 626.8473.

Data elements the audit includes:

Minnesota Statute §13.825

- Data Classification
- Retention of Data
- Access by Data Subjects
- Inventory of Portable Recording System Technology
- Use of Agency-Issued Portable Recording Systems
- Authorization to Access Data
- Sharing Among Agencies

Minnesota Statute §626.8473

- Public Comment
- Body-worn Camera Policy

The Fairmont Police Department is located in Martin County, Minnesota, and employs eighteen (18) peace officers. The Fairmont Police Department utilizes WatchGuard Vista body-worn cameras and software. BWC data is stored on a local file server hosted by Martin County. The audit covers the time period August 1, 2018, through August 30, 2020.

## **Audit Requirement: Data Classification**

*Determine that the data collected by BWCs are appropriately classified.*

BWC data is presumptively private. All data collected by the Fairmont Police Department during the time period August 1, 2018, through August 30, 2020, is classified as private or nonpublic data. The Fairmont Police Department had no instances of the discharge of a firearm by a peace officer in the course of duty, use of force by a peace officer that resulted in substantial bodily harm, requests from data subjects for the data to be made accessible to the public or court orders directing the agency to release the BWC data to the public.

*No discrepancies noted.*

**Audit Requirement: Retention of Data**

*Determine that the data collected by BWC's are appropriately retained and destroyed in accordance with statutes.*

The Fairmont Police Department utilizes the General Records Retention Schedule for Minnesota Cities and agency specified retention periods in WatchGuard Vista. At the conclusion of a BWC recording, a WatchGuard category type is assigned. Each WatchGuard category type has an associated retention period. Upon reaching the retention date, data is systematically deleted. Active BWC data is accessible in the WatchGuard Evidence Library.

Randomly selected videos from a server Purged Vista Events Report were verified against the record purge date, and each record was deleted in accordance with record retention associated to the corresponding category. During the second month of operation, three videos were deleted in less than the 90 days required by statute. The category assigned to these videos was without agency-assigned retention. Records selected were from the time period August 1, 2018, through August 30, 2020. Deleted BWC video is not accessible in the WatchGuard Evidence Library. The Fairmont Police Department has not received a request from a data subject to retain BWC data beyond the applicable retention period.

*Discrepancy noted.*

**Audit Requirement: Access by Data Subjects**

*Determine that individuals who are the subject of collected data have access to the data, and if the data subject requests a copy of the data, other individuals who do not consent to its release must be redacted.*

BWC data is available and access may be requested by submission of a Fairmont Police Department Data Request Form. During the time period August 1, 2018, through August 30, 2020, the Fairmont Police Department had received neither requests to view, nor requests for copies of, BWC data from data subjects.

*No discrepancies noted.*

**Audit Requirement: Inventory of Portable Recording System Technology**

*Determine the total number of recording devices owned and maintained by the agency; a daily record of the total number of recording devices actually deployed and used by officers, the policies and procedures for use of portable recording systems by required by section 626.8473; and the total amount of recorded audio and video collected by the portable recording system and maintained by the agency, the agency's retention schedule for the data, the agency's procedures for destruction of the data, and that the data are available to the public.*

Fairmont Police Department's BWC inventory consists of eight (8) devices. Device inventory is maintained in the WatchGuard Evidence Library.

The Fairmont Police Department has established and enforces a BWC policy that governs the use of portable recording systems by peace officers while in the performance of their duties. The Fairmont Police Department's BWC policy requires officers to confirm equipment is operational and to immediately report any malfunctions, damage, loss or theft of equipment to the on-duty supervisor. During implementation, peace officers were trained on the use of the BWC system by a WatchGuard trainer. New officers are trained as part of their field training program.

The Fairmont Police Department BWC policy states there is no requirement for officers to use BWCs during their shift unless they have been deemed a Brady-Giglio Impaired officer by the Martin County Attorney's Office in which case that officer will be required to utilize a BWC during their shift. The BWC policy strongly encourages officers to employ and use the BWC's during their shift. A comparison of calls for service to BWC data shows that, while in accordance with policy, officers use of BWCs is limited.

The total amount of active data is accessible in the WatchGuard Evidence Library. Total amount of active and deleted data is documented in the server Active and Purged Vista Events Report.

The Fairmont Police Department utilizes the General Records Retention Schedule for Minnesota Cities and agency specified retention in WatchGuard. BWC video is fully deleted from the local file server upon the scheduled deletion date. Meta data and audit trail information are maintained on the server. BWC data is available upon request, and access may be requested by submission of a Data Request Form.

*No discrepancies noted.*

#### **Audit Requirement: Use of Agency-Issued Portable Recording Systems**

*Determine if peace officers are only allowed to use portable recording systems issued and maintained by the officer's agency.*

The Fairmont Police Department's BWC policy states that officers may only use Department issued BWC's.

*No discrepancies noted.*

#### **Audit Requirement: Authorization to Access Data**

*Determine if the agency complies with sections 13.05, Subd. 5, and 13.055 in the operation of portable recording systems and in maintaining portable recording system data.*

Sergeants conduct quarterly reviews of BWC data to ensure BWCs are being utilized in compliance with policy.

User access to BWC data is managed by the assignment of group roles and permissions in WatchGuard. Permissions are based on staff work assignments. Agency personnel may access

BWC data only when there is a business need for doing so. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law-enforcement-related purposes. The agency's BWC policy governs access to and sharing of data. Access to data is captured in the audit trail.

When BWC data is deleted from WatchGuard, its contents cannot be determined.

The Fairmont Police Department and Martin County have had no security breaches. The last BCA CJIS security audit was conducted in 2020.

*No discrepancies noted.*

#### **Audit Requirement: Sharing Among Agencies**

*Determine if nonpublic BWC data is shared with other law enforcement agencies, government entities, or federal agencies.*

The Fairmont Police Department's BWC policy allows for the sharing of data with other law enforcement agencies, prosecutors, courts and other criminal justice entities as provided by law. Sharing of data is documented in the iCrimeFighter software and the WatchGuard audit trail.

*No discrepancies noted.*

#### **Audit Requirement: Biennial Audit**

*Determine if the agency maintains records showing the date and time the portable recording system data were collected, the applicable classification of the data, how the data are used, and whether data are destroyed as required.*

The WatchGuard Evidence Library and the server Purged Event Report document the date and time portable recording system data was collected, the retention period of the data, and the audit trail associated to the data. The audit trail, the Records Management System, and iCrimeFighter software document how the data are used and shared.

*No discrepancies noted.*

#### **Audit Requirement: Portable Recording System Vendor**

*Determine if portable recording system data stored in the cloud, is stored in accordance with security requirements of the United States Federal Bureau of Investigation Criminal Justice Information Services Division Security Policy 5.4 or its successor version.*

Fairmont Police Department's BWC data is stored on a local file server hosted by Martin County. The server is located in a secure area, and access to the server is password protected.

*No discrepancies noted.*

**Audit Requirement: Public Comment**

*Determine if the law enforcement agency provided an opportunity for public comment before it purchased or implemented a portable recording system and if the governing body with jurisdiction over the budget of the law enforcement agency provided an opportunity for public comment at a regularly scheduled meeting.*

The Fairmont Police Department solicited for public comment on the agency's website. The public was invited to provide public comment by online questionnaire, by mail, email or telephone. The Fairmont City Council held a public hearing at their October 9, 2017, meeting. The body worn camera program was fully implemented August 1, 2018.

*No discrepancies noted.*

**Audit Requirement: Body-worn Camera Policy**

*Determine if a written policy governing the use of portable recording systems has been established and is enforced.*

The Fairmont Police Department's BWC policy is posted on the agency's website. The policy was compared to the requirements of Minn. Stat. § 626.8473. The agency's policy includes all minimum requirements of Minn. Stat. § 626.8473.

*No discrepancies noted.*

This report was prepared exclusively for the City of Fairmont and Fairmont Police Department by Lynn Lembcke Consulting. The findings in this report are impartial and based on information and documentation provided and examined.

Dated: February 22, 2021

Lynn Lembcke Consulting



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Lynn Lembcke