

## INDEPENDENT AUDIT REPORT

Jon Rechtzigel  
Chief of Police  
Apple Valley Police Department  
7100 147<sup>th</sup> St. W.  
Apple Valley, MN 55124

Dear Chief Rechtzigel:

An independent audit of the Apple Valley Police Department's Portable Recording System (body-worn cameras (BWCs)) was conducted of September 23, 2020. The objective of the audit was to verify Apple Valley 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
- Portable Recording System Policy

The Apple Valley Police Department is located in Dakota County, Minnesota and employs fifty-five (55) peace officers. The Apple Valley Police Department utilizes Panasonic Arbitrator body-worn cameras and software and stores the BWC data on a local file server. The audit covers the time period February 25, 2019, through September 22, 2020.

### **Audit Requirement: Data Classification**

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

BWC data is presumptively private. All BWC data collected during the time period February 25, 2019, through September 22, 2020, is classified as private or non-public data. The Apple Valley Police Department had no instances of the discharge of a firearm by a peace officer, use of force 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 Apple Valley Police Department utilizes the General Records Retention Schedule for Minnesota Cities and agency specified retention periods in the Arbitrator 360° Back-End Client software system. Either during, or at the conclusion of a BWC recording, an Arbitrator classification is assigned. Each Arbitrator classification has an associated retention period. Upon reaching the retention date, data is systematically deleted. All BWC data is maintained for a minimum of 90 days as required by statute.

Randomly selected records from a server log report were reviewed, and the date and time the data was created was verified against the deletion date. Each of the records were deleted in accordance with the record retention. BWC video, meta data, and audit trails are purged from the Arbitrator 360° Back-End Client upon reaching the specified retention period. The Apple Valley Police Department has not received a request from a data subject to retain BWC data beyond the applicable retention period.

*No discrepancies 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 an Apple Valley Police Department Information Disclosure Request form. During the time period February 25, 2019, through September 22, 2020, the Apple Valley Police Department had received no requests to view BWC data from a data subject but did fulfill a request for a copy of BWC data from a data subject. Data subjects other than the requestor were redacted. Information Disclosure Request forms are maintained in the case file.

*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.*

Apple Valley Police Department's BWC inventory consists of twenty-five (25) devices. Police officers check out a device at the beginning of their shift. An inventory of the total number of devices owned by the agency is maintained within Arbitrator 360° Back-End Client. The server log report confirms that BWCs are being deployed and used by officers and shows a consistent collection of data.

The Apple Valley 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 Department's BWC policy requires officers to perform a function test of their BWC at the beginning of each shift and to report any malfunction discovered during the check, or discovered at any time thereafter, to his/her supervisor. Peace officers initially trained on the use of BWC's during in-service training during implementation. New officers are trained as part of their field training program.

A server log report details the total amount of BWC data created, deleted, and stored/maintained. The Apple Valley Police Department utilizes the General Records Retention Schedule for Minnesota cities and agency specified retention in Arbitrator 360°.

BWC video is fully deleted from the Arbitrator 360° Back-End Client and local file server upon reaching the scheduled deletion date. Meta data and audit trail information associated to the deleted video is not maintained in the Arbitrator 360° Back-End Client. The server log report maintains deleted BWC meta data. BWC data is available upon request, and access may be requested by submission of an Information Disclosure 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 Apple Valley Police Department's BWC policy states that Officers may only use Department-issued BWCs in the performance of official duties.

*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.*

Captains conduct reviews of BWC data and assess whether use is in accordance with policy.

User access to BWC data is managed by the assignment of group roles and permissions in Arbitrator 360° Back-End Client. Permissions are based on staff work assignments. A police Captain is responsible for managing the assignment of user rights.

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

When BWC data is deleted from Arbitrator 360° Back-End Client, its contents cannot be determined. The Apple Valley Police Department has had no security breaches.

*No discrepancies noted.*

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

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

Law enforcement agencies, government entities, or federal agencies seeking access to BWC data submit written requests for the data. Sharing of BWC data with other law enforcement agencies, government entities, or federal agencies is documented in the case file.

*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 Arbitrator 360° Back-End Client and a database server log report document the date and time portable recording system data was collected. All BWC data for the audit period is classified as private or non-public data. The audit trail and the case file document how the data are used and shared. Active BWC data within the Arbitrator 360° Back-End Client includes a classification with an associated retention period and a scheduled deletion date.

*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.*

Apple Valley Police Department BWC data is stored on a file server. The server is stored in a secure location and access is password protected. A BCA security audit was conducted in August, 2018.

*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 Apple Valley Police Department solicited public comment prior to purchase and implementation of the body worn camera program. Public comment was solicited for on the agency's website. The Apple Valley City Council held a public hearing at their November 29, 2018, meeting.

*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 Apple Valley 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, Subd. 3.

*No discrepancies noted.*

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

Dated: February 11, 2021

Lynn Lembcke Consulting



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Lynn Lembcke