



INDEPENDENT AUDITOR'S REPORT

Carlton County Sheriff's Office Body-Worn Camera Program



JANUARY 30, 2023
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Audit Overview and Recommendations

Dear Carlton County Board and Sheriff Lake:

We have audited the body-worn camera (BWC) program of the Carlton County Sheriff's Office (CCSO) for the period of 11/03/2020 – 9/13/2022. Minnesota Statute §13.825 mandates that any law enforcement agency operating a portable recording system (PRS)¹ program obtain an independent, biennial audit of its program. This program and its associated data are the responsibility of the Carlton County Sheriff's Office. Our responsibility is to express an opinion on the operations of this program based on our audit.

On October 20, 2022, Rampart Defense LLC (Rampart) met with Lt. Dan Danielson, who provided information about CCSO's BWC program policies, procedures and operations. As part of the audit, Rampart reviewed those policies, procedures and operations for compliance with Minnesota Statute §626.8473, which sets forth the requirements for creating and implementing a BWC program, and Minnesota Statute §13.825, which governs the operation of BWC programs. In addition, Rampart also conducted a sampling of BWC data to verify CCSO's recordkeeping.

The purpose of this report is to provide an overview of this audit, and to provide recommendations to improve the CCSO BWC program and enhance compliance with statutory requirements.

CCSO BWC Program Implementation and Authorization

Effective August 1, 2016, Minnesota Statute §626.8473 Subd. 2 requires that:

A local law enforcement agency must provide an opportunity for public comment before it purchases or implements a portable recording system. At a minimum, the agency must accept public comments submitted electronically or by mail, and the governing body with jurisdiction over the budget of the law enforcement agency must provide an opportunity for public comment at a regularly-scheduled meeting.

In addition, §626.8473 Subd. 3(a) requires that the law enforcement agency establish and enforce a written policy governing the use of its portable recording system, and states "[t]he written policy must be posted on the agency's Web site, if the agency has a Web site."

Lt. Danielson provided documentation showing that the public notification, comment and meeting requirements had been satisfied prior to the implementation of CCSO's BWC program on November 3, 2020. Specifically, Lt. Danielson furnished the following:

- A copy of a press release dated April 28, 2020, announcing CCSO's plan to implement a BWC program and inviting the public to provide comment electronically, by mail or in person at the May 12, 2020, meeting of the Carlton County Board.

¹ It should be noted that Minnesota statute uses the broader term "portable recording system" (PRS), which includes body-worn cameras. Because body-worn cameras are the only type of portable recording system employed by CCSO, these terms may be used interchangeably in this report.

- A copy of an article relaying this same information that appeared in the Cloquet, MN, *Pine Journal* newspaper.
- A copy of the minutes of the May 12, 2020, Carlton County Board meeting, which noted that CCSO “was present to facilitate a Body Worn Cameras Forum allowing the public an opportunity to provide comment regarding purchase and implementation of body worn cameras under Minnesota Statute §626.8473.”

Copies of these documents have been retained in Rampart’s audit files.

Rampart staff also verified that there was a working link to the Carlton County Sheriff’s Office’s written BWC policy on their webpage at the time of our audit.

CCSO BWC WRITTEN POLICY

As part of this audit, we reviewed CCSO’s BWC policy, a copy of which is attached to this report as Appendix A.

Minnesota Statute §626.8473 Subd. 3(b) requires a written BWC policy to incorporate the following, at a minimum:

1. The requirements of section 13.825 and other data classifications, access procedures, retention policies, and data safeguards that, at a minimum, meet the requirements of chapter 13 and other applicable law;
2. Procedures for testing the portable recording system to ensure adequate functioning;
3. Procedures to address a system malfunction or failure, including requirements for documentation by the officer using the system at the time of a malfunction or failure;
4. Circumstances where recording is mandatory, prohibited, or at the discretion of the officer using the system;
5. Circumstances under which a data subject must be given notice of a recording;
6. Circumstances under which a recording may be ended while an investigation, response, or incident is ongoing;
7. Procedures for the secure storage of portable recording system data and the creation of backup copies of the data; and
8. Procedures to ensure compliance and address violations of the policy, which must include, at a minimum, supervisory or internal audits and reviews, and the employee discipline standards for unauthorized access to data contained in section 13.09.

Due to their complexity and interrelatedness, clauses 1 and 7 are discussed separately below. Clause 8 is also discussed separately.

In our opinion, the CCSO BWC policy is compliant with respect to clauses 2 – 6.

CCSO BWC Data Retention

Section 422.11 of CCSO’s BWC policy states that “[a]ll recordings shall be retained for a period consistent with the requirements of the organization[']s records retention schedule but in no event for a

period of less than 180 days.” Our review of a submitted records retention schedule did not provide additional detail.

Minnesota Statute §13.825 Subd. 3(b) specifies a retention period of “at least one year” for BWC data meeting any the following classifications:

- Data documenting the discharge of a firearm by a peace officer in the course of duty if a notice is required under section 626.553 Subd. 2;
- Data documenting the use of force by a peace officer that results in substantial bodily harm;
- Data documenting an incident giving rise to a formal complaint against a peace officer.

Prior to the completion of this report, CCSO furnished a revised BWC policy specifying a minimum retention period of one-year for the categories of BWC data listed above. A copy of this revised BWC policy is attached to this report as Appendix B.

We noted that Section 422.11 states: “If an individual captured in a recording submits a written request, the recording *may* [italics added] be retained for an additional time period,” while §13.825 Subd. 3 states: “...the law enforcement agency *shall* [italics added] retain the recording for an additional time period...” Prior to completion of this report, CCSO furnished a revised copy of the BWC policy that replaces “may” with “shall” to reflect the statutory language.

CCSO employs WatchGuard V300 body-worn cameras and manages BWC data retention on WatchGuard’s secure, cloud-based servers through automated retention settings in the Evidence Library video management software. The retention period for each video is determined by the data classification assigned at the time of upload; however, this retention period can be adjusted as needed.

CCSO’s BWC policy requires that each officer transfer data from his or her body-worn camera to the WatchGuard server by the end of each shift, and also requires that the officer assign the appropriate label or labels to each file to identify the nature of the data. These labels then determine the appropriate retention period for each file.

In our opinion, CCSO’s amended written BWC policy is compliant with respect to applicable data retention requirements as of the date of this report.

CCSO BWC Data Destruction

As discussed above, CCSO’s BWC data are stored on WatchGuard’s cloud-based servers, with data retention and deletion schedules managed automatically through the Evidence Library video management software based on the assigned data classification of each video.

WatchGuard utilizes Microsoft’s Azure Government environment for cloud storage. Microsoft certifies this environment as being compliant with the current Federal Bureau of Investigation Criminal Justice Information Services Division Security Policy (5.9), and notes that it has signed CJIS management agreements with 45 of the 50 U.S. states, including Minnesota, to verify compliance with state CJIS requirements.

FBI CJIS policy requires that hard drives used for CJIS data storage are sanitized by overwriting at least three times or degaussing prior to being released to unauthorized individuals, while inoperable drives must be destroyed through physical means such as shredding.

In our opinion, CCSO's written BWC policy is compliant with respect to the applicable data destruction requirements.

CCSO BWC Data Access

Any request for access to BWC data by data subjects would be made in writing to the CCSO Records Department, either via email or by submitting CCSO's preferred data request form. The records supervisor is then responsible for reviewing and fulfilling each request in accordance with the provisions of §13.825 Subd. 4(b).

CCSO BWC data is shared with other law enforcement agencies for evidentiary purposes only. All such requests must be made in writing to the CCSO Records Department. Existing verbal agreements between CCSO and other area law enforcement agencies address data classification, destruction and security requirements, as specified in §13.825 Subd. 8(b). At the time of the audit, CCSO was in the process of amending the data request form to document acknowledgment of these requirements by requesting agencies. Access to CCSO BWC data for outside agencies is provided via expiring email link.

We recommend that CCSO obtain a written acknowledgement from any outside law enforcement agency that any BWC data obtained from CCSO will be managed by the requesting agency in compliance with the requirements of §13.825 Subd. 7 and 8. A copy of this written acknowledgment should be maintained on file.

In our opinion, CCSO's written BWC policy is compliant with respect to the applicable data access requirements.

CCSO BWC Data Classification

CCSO follows the BWC data classifications set forth in Minnesota Statute §13.825, and the written BWC policy incorporates the statute by reference. In our opinion, this section of the policy is compliant with respect to the applicable data classification requirements.

CCSO BWC Internal Compliance Verification

The Review of Recorded Media Files section of the CCSO BWC policy authorizes supervisors to "review relevant recordings any time they are investigating alleged misconduct or reports or meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance," but does not mandate such reviews. Lt. Danielson advised us that the chief deputy does conduct reviews, but that they are normally incident-dependent.

Minnesota Statute §626.8473 Subd. 3(b)(8) requires that a written BWC policy contain “procedures to ensure compliance and address violations of the policy, which must include, at a minimum, supervisory or internal audits or reviews...”

Prior to the completion of this report, CCSO furnished a revised BWC policy specifying that recorded files may also be reviewed “[b]y a supervisor as part of internal audits and reviews as required by Minn. Stat. §626.8473.”

We recommend that CCSO adopt additional language to clarify that supervisors shall conduct internal audits and reviews, as well as to provide guidance with respect to the appropriate procedures and frequency for such audits and reviews.

The Accountability section of CCSO’s BWC policy states that “[a]ny member who accesses or releases recordings without authorization may be subject to discipline.”

In our opinion, these sections of the policy are substantially compliant with the applicable internal compliance and disciplinary requirements contained in §626.8473 Subd. 3(b)(8).

CCSO BWC Program and Inventory

CCSO currently possesses 26 WatchGuard body-worn cameras, including one (1) spare.

The CCSO BWC policy identifies those circumstances in which deputies are expected to activate their body-worn cameras, as well as circumstances in which they are prohibited from activating their body-worn cameras. The policy also provides guidance for those circumstances in which BWC activation is deemed discretionary.

The CCSO BWC policy states that “[p]rior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Office, and that the recorder is in good working order.” Lt. Danielson advised that this is accomplished through a function check to ensure the recorder is operating correctly.

While CCSO does not maintain a separate log of BWC deployment or use, Lt. Danielson advised us that because each uniformed deputy wears a BWC while on duty, the number of BWC units deployed with uniformed personnel each shift can be determined based on a review of CCSO payroll records. In addition, non-uniformed personnel are issued and authorized but not required to wear or use body-worn cameras. Actual BWC use would be determined based on the creation of BWC data.

As of the date of the audit, CCSO maintained 10,325 files of BWC data.

The Prohibited Use of Audio/Video Recorders section of the CCSO BWC Policy states that “[m]embers are prohibited from using personally owned recording devices while on-duty *without the express consent of the Shift Sergeant* [italics added].” The policy further states that the member “should notify the on-duty supervisor of such use as soon as reasonably practicable.”

Minn. Stat. §13.825 Subd. 6, however, states that: “[w]hile on duty, a peace officer *may only use a portable recording system issued and maintained by the officer’s agency* [italics added] in documenting the officer’s activities.”

Rampart reviewed this conflict between statutory and policy language with CCSO. Lt. Danielson advised us that CCSO then consulted with Lexipol, the company which furnished CCSO's BWC policy, and that while Lexipol acknowledged Minnesota's statutory prohibition on the use of personally-owned recorders, their suggested "best practice" is to permit the use of such devices with supervisory approval in emergency situations.

Lt. Danielson advised us that after further analysis, CCSO determined that in the event of a catastrophic body-worn camera failure in an emergency situation, deputies would be authorized to employ their CCSO-issued cell phones as substitute recording devices.

As these cell phones are owned and maintained by CCSO, it is our opinion that such use would comply with the requirements of Minn. Stat. §13.825 Subd. 6. We noted that the Visual Labs BWC application employed by many Minnesota law enforcement agencies already utilizes agency-issued cell phones as recording devices.

Prior to completion of this report, CCSO furnished a revised copy of the BWC policy that removes the language allowing supervisors to authorize the use of personally-owned recording devices.

In our opinion, CCSO's amended written BWC policy is compliant with respect to device testing and malfunction requirements, as well as the requirement that personnel employ only agency-owned BWC devices, as of the date of this report.

CCSO BWC Physical, Technological and Procedural Safeguards

CCSO BWC data are initially recorded to an internal hard drive in each deputy's BWC. Those files are then transferred to a WatchGuard's cloud service via wireless data uplink.

Officers have view-only access to their own data for report writing, trial preparation, data administration, investigatory purposes and other legitimate law enforcement purposes through WatchGuard's Evidence Library software.

As noted above, requests by other law enforcement agencies for CCSO BWC data must be approved by the Records Department and are fulfilled via expiring email link. A similar method is employed to submit CCSO BWC data to the Carlton County Attorney's Office.

Enhanced Surveillance Technology

CCSO currently employs BWCs with only standard audio/video recording capabilities. They have no plans at this time to add enhanced BWC surveillance capabilities, such as thermal or night vision, or to otherwise expand the type or scope of their BWC technology.

If CCSO should obtain such enhanced technology in the future, Minnesota Statute §13.825 Subd. 10 requires notice to the Minnesota Bureau of Criminal Apprehension within 10 days. This notice must include a description of the technology and its surveillance capability and intended uses.

Data Sampling

Rampart selected a random sample of 132 calls for service from which to review any available BWC recordings. It should be noted that not every call will result in a deputy activating his or her BWC. For example, a deputy who responds to a driving complaint but is unable to locate the suspect vehicle would be unlikely to activate his or her BWC. It should also be noted that because the audit covers a period of two years, while most BWC data is only required to be retained for 90 days, there is a significant likelihood that the sample population will include calls for which BWC data was created, but which has since been deleted due to the expiration of the retention period. The auditor reviewed the retained BWC videos to verify that this data was accurately documented in CCSO records.

Audit Conclusions

In our opinion, as of the date of this report the Carlton County Sheriff's Office's Body-Worn Camera Program is substantially compliant with Minnesota Statutes §13.825 and §626.8473.



Daniel E. Gazelka

Rampart Defense LLC

1/30/2023

Appendix A

Policy 422 Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Copyright Lexipol, LLC 2022/08/16, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 1 Portable Audio/Video Recorders 422.1 PURPOSE AND SCOPE This policy provides guidelines for the use of portable audio/video recording devices by members of this office while in the performance of their duties (Minn. Stat. § 626.8473). Portable audio/ video recording devices include all recording systems whether body-worn, handheld or integrated into portable equipment. This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Carlton County Sheriff's Office facility, undercover operations, wiretaps or eavesdropping (concealed listening devices) unless captured by a portable recording system. 422.1.1 DEFINITIONS Definitions related to this policy include: Portable recording system - A device worn by a member that is capable of both video and audio recording of the member's activities and interactions with others or collecting digital multimedia evidence as part of an investigation and as provided in Minn. Stat. § 13.825. 422.2 POLICY The Carlton County Sheriff's Office may provide members with access to portable recorders for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Office by accurately capturing contacts between members of the Office and the public. 422.3 COORDINATOR The Sheriff or the authorized designee should designate a coordinator responsible for (Minn. Stat. § 626.8473; Minn. Stat. § 13.825): (a) Establishing procedures for the security, storage and maintenance of data and recordings. (a) The coordinator should work with the Custodian of Records and the member assigned to coordinate the use, access and release of protected information to ensure that procedures comply with requirements of the Minnesota Government Data Practices Act (MGDPA) and other applicable laws (Minn. Stat. § 13.01 et seq.). (b) Establishing procedures for accessing data and recordings. 1. These procedures should include the process to obtain written authorization for access to non-public data by CCSO members and members of other governmental entities and agencies. (c) Establishing procedures for logging or auditing access. (d) Establishing procedures for transferring, downloading, tagging or marking events. (e) Establishing an inventory of portable recorders including: Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2022/08/16, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 2 1. Total number of devices owned or maintained by the Carlton County Sheriff's Office. 2. Daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used. 3. Total amount of recorded audio and video data collected by the devices and maintained by the Carlton County Sheriff's Office. (f) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9. (g) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Carlton County Sheriff's Office that expands the type or scope of surveillance capabilities of the office's portable recorders. 422.4 MEMBER PRIVACY EXPECTATION All recordings made by members on any office-issued device at any time or while acting in an official capacity of this office, regardless of ownership of the device, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of these recordings. 422.5 MEMBER RESPONSIBILITIES Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Office, and that the recorder is in good working order (Minn. Stat. § 13.825). If the recorder is not in working order or the member

becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. § 626.8473). Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable. When using a portable recorder, the assigned member shall record his/her name, employee number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording. Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording (Minn. Stat. § 626.8473). Members should include the reason for deactivation. Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2022/08/16, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 3 422.6

ACTIVATION OF THE AUDIO/VIDEO RECORDER This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident. The recorder should be activated in any of the following situations: (a) All enforcement and investigative contacts including stops and field interview (FI) situations (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops (c) Self-initiated activity in which a member would normally notify 9-1-1 Communications (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording. At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable. 422.6.1

CESSATION OF RECORDING Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident. 422.6.2

SURREPTITIOUS RECORDINGS Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02). Members of the Office may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation. Members shall not surreptitiously record another office member without a court order unless lawfully authorized by the Sheriff or the authorized designee. Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC

2022/08/16, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 4 422.6.3 EXPLOSIVE DEVICE Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present. 422.7 PROHIBITED USE OF AUDIO/VIDEO RECORDERS Members are prohibited from using office-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity. Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with office-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office. Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Sergeant. Any member who uses a personally owned recorder for office-related activities shall comply with the provisions of this policy, including retention and release requirements and should notify the on-duty supervisor of such use as soon as reasonably practicable. Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule. 422.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS To assist with identifying and preserving data and recordings, members should download, tag or mark the recordings in accordance with procedure and document the existence of the recording in any related case report. A member should transfer, tag or mark recordings when the member reasonably believes: (a) The recording contains evidence relevant to potential criminal, civil or administrative matters. (b) A complainant, victim or witness has requested non-disclosure. (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person. (d) Disclosure may be an unreasonable violation of someone's privacy. (e) Medical or mental health information is contained. (f) Disclosure may compromise an under-cover officer or confidential informant. (g) The recording or portions of the recording may be protected under the Minnesota Data Practices Act. Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2022/08/16, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 5 Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording. 422.9 ACCOUNTABILITY Any member who accesses or releases recordings without authorization may be subject to discipline (Minn. Stat. § 626.8473). 422.10 REVIEW OF RECORDED MEDIA FILES When preparing written reports, members should review their recordings as a resource . However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report. Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance. Recorded files may also be reviewed: (a) Upon approval by a supervisor, by any member of the Office who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation. (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case. (c) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15. All recordings should be reviewed by the Custodian of Records prior to public release. Recordings that are clearly offensive to common sensibilities should not be publicly released unless disclosure is required by law or order of the court (Minn. Stat. § 13.82, Subd. 7;

Minn. Stat. § 13.825, Subd. 2). 422.11 RETENTION OF RECORDINGS All recordings shall be retained for a period consistent with the requirements of the organizations records retention schedule but in no event for a period of less than 180 days. If an individual captured in a recording submits a written request, the recording may be retained for an additional period of time. The coordinator should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).# 422.11.1 RELEASE OF AUDIO/ VIDEO RECORDINGS Requests for the release of audio/ video recordings shall be processed in accordance with office policy. Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2022/08/16, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 6 422.11.2 ACCESS TO RECORDINGS Except as provided by Minn Stat. § 13.825, Subd. 2, audio/ video recordings are considered private or non public data. Any person captured in a recording may have access to the recording. If the individual requests a copy of the recording and does not have the consent of other non-law enforcement individuals captured on the recording, the identity of those individuals must be blurred or obscured sufficiently to render the the subject unidentifiable prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under Minn. Stat. § 13.82, Subd. 17. 422.12 US MARSHAL FUGITIVE TASK FORCE MEMBERS The Carlton County Sheriff's Office may have employees working as members of the US Marshal Service (USMS) Fugitive Task Force. Any employee deputized as a US Marshal working on a task force approved assignment, must follow USMS rules related to the use of portable recording systems.

Appendix B

Policy 422 Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Copyright Lexipol, LLC 2023/01/27, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 1 Portable Audio/Video Recorders 422.1 PURPOSE AND SCOPE This policy provides guidelines for the use of portable audio/video recording devices by members of this office while in the performance of their duties (Minn. Stat. § 626.8473). Portable audio/video recording devices include all recording systems whether body-worn, hand-held, or integrated into portable equipment. This policy does not apply to mobile audio/video recordings, interviews, or interrogations conducted at any Carlton County Sheriff's Office facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices). 422.1.1 DEFINITIONS Definitions related to this policy include: Portable recording system - A device worn by a member that is capable of both video and audio recording of the member's activities and interactions with others or collecting digital multimedia evidence as part of an investigation and as provided in Minn. Stat. § 13.825. 422.2 POLICY The Carlton County Sheriff's Office may provide members with access to portable recorders for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Office by accurately capturing contacts between members of the Office and the public. 422.3 COORDINATOR The Sheriff or the authorized designee should designate a coordinator responsible for (Minn. Stat. § 626.8473; Minn. Stat. § 13.825): (a) Establishing procedures for the security, storage, and maintenance of data and recordings. 1. The coordinator should work with the Custodian of Records and the member assigned to coordinate the use, access, and release of protected information to ensure that procedures comply with requirements of the Minnesota Government Data Practices Act (MGDPA) and other applicable laws (Minn. Stat. § 13.01 et seq.) (see the Protected Information and the Records Maintenance and Release policies). 2. The coordinator should work with the Custodian of Records to identify recordings that must be retained for a specific time frame under Minnesota law (e.g., firearm discharges, certain use of force incidents, formal complaints). (b) Establishing procedures for accessing data and recordings. 1. These procedures should include the process to obtain written authorization for access to non-public data by CCSO members and members of other governmental entities and agencies. (c) Establishing procedures for logging or auditing access. Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2023/01/27, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 2 (d) Establishing procedures for transferring, downloading, tagging, or marking events. (e) Establishing an inventory of portable recorders including: 1. Total number of devices owned or maintained by the Carlton County Sheriff's Office. 2. Daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used. 3. Total amount of recorded audio and video data collected by the devices and maintained by the Carlton County Sheriff's Office. (f) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9. (g) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Carlton County Sheriff's Office that expands the type or scope of surveillance capabilities of the office's portable recorders. (h) Ensuring that this Portable Audio/Video Recorders Policy is posted on the Office website. 422.4 MEMBER PRIVACY EXPECTATION All recordings made by members on any office-issued device at any time or while acting in an official capacity of this office, regardless of ownership of the device, shall

remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of these recordings. 422.5 MEMBER RESPONSIBILITIES Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Office, and that the recorder is in good working order (Minn. Stat. § 13.825). If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. § 626.8473). Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable. When using a portable recorder, the assigned member shall record his/her name, employee number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording. Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2023/01/27, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 3 Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording (Minn. Stat. § 626.8473). Members should include the reason for deactivation. 422.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident. The recorder should be activated in any of the following situations: (a) All enforcement and investigative contacts including stops and field interview (FI) situations (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops (c) Self-initiated activity in which a member would normally notify 9-1-1 Communications (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording. At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable. 422.6.1 CESSATION OF RECORDING Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident. 422.6.2 SURREPTITIOUS RECORDINGS Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02). Members of the Office may

surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation. Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2023/01/27, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 4 Members shall not surreptitiously record another office member without a court order unless lawfully authorized by the Sheriff or the authorized designee.

422.6.3 EXPLOSIVE DEVICE Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

422.7 PROHIBITED USE OF AUDIO/VIDEO RECORDERS Members are prohibited from using office-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity. Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with office-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office. Members are prohibited from using personally owned recording devices while on-duty. Members may only use a portable recording system issued and maintained by the Carlton County Sheriff's Office in documenting the members activities. Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

422.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS To assist with identifying and preserving data and recordings, members should download, tag or mark the recordings in accordance with procedure and document the existence of the recording in any related case report. A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an under-cover officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Minnesota Data Practices Act.

Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2023/01/27, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 5 Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

422.9 ACCOUNTABILITY Any member who accesses or releases recordings without authorization may be subject to discipline (see the Standards of Conduct and the Protected Information policies) (Minn. Stat. § 626.8473).

422.10 REVIEW OF RECORDED MEDIA FILES When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report. Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance. Recorded files may also be reviewed:

- (a) By a supervisor as part of internal audits and reviews as required by Minn. Stat. § 626.8473.
- (b) Upon approval by a supervisor, by any member of the Office who is participating in an official investigation, such as a personnel complaint, administrative investigation, or criminal

investigation. (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case. (d) By media personnel with permission of the Sheriff or the authorized designee. (e) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15, and in accordance with the Records Maintenance and Release Policy. All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that are clearly offensive to common sensibilities should not be publicly released unless disclosure is required by law or order of the court (Minn. Stat. § 13.82, Subd. 7; Minn. Stat. § 13.825, Subd. 2).

422.11 RETENTION OF RECORDINGS All recordings shall be retained for a period consistent with the requirements of the organizations records retention schedule but in no event for a period of less than 180 days. Recordings documenting the discharge of a firearm by a peace officer in the course of duty if notice is required under section 626.553, subd. 2, or, the use of force by a peace officer that results in Carlton County Sheriff's Office Carlton Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2023/01/27, All Rights Reserved. Published with permission by Carlton County Sheriff's Office Portable Audio/Video Recorders - 6 substantial bodily harm; or, if a formal complaint is made against a peace officer related to the incident shall be maintained for at least one year. If an individual captured in a recording submits a written request, the recording shall be retained for an additional period of time. The coordinator should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

422.11.1 RELEASE OF AUDIO/ VIDEO RECORDINGS Requests for the release of audio/ video recordings shall be processed in accordance with office policy.

422.11.2 ACCESS TO RECORDINGS Except as provided by Minn Stat. § 13.825, Subd. 2, audio/ video recordings are considered private or non public data. Any person captured in a recording may have access to the recording. If the individual requests a copy of the recording and does not have the consent of other non-law enforcement individuals captured on the recording, the identity of those individuals must be blurred or obscured sufficiently to render the the subject unidentifiable prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under Minn. Stat. § 13.82, Subd. 17.

422.12 US MARSHAL FUGITIVE TASK FORCE MEMBERS The Carlton County Sheriff's Office may have employees working as members of the US Marshal Service (USMS) Fugitive Task Force. Any employee deputized as a US Marshal working on a task force approved assignment, must follow USMS rules related to the use of portable recording systems.