



# INDEPENDENT AUDITOR'S REPORT

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Stearns County Sheriff's office



AUGUST 11TH, 2023  
RAMPART DEFENSE LLC  
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## **Audit Overview and Recommendations**

Dear Stearns County Board and Sheriff Soyka:

We have audited the body-worn camera (BWC) program of the Stearns County Sheriff's Office (SCSO) Campus Deputy Unit (CDU)<sup>1</sup> for the period of 2/01/2021 – 1/31/2023. Minnesota Statute §13.825 mandates that any law enforcement agency operating a portable recording system (PRS)<sup>2</sup> program obtain an independent, biennial audit of its program. This program and its associated data are the responsibility of the Stearns County Sheriff's Office. Our responsibility is to express an opinion on the operations of this program based on our audit.

On April 24, 2023, Rampart Defense LLC (Rampart) met with Captain Jon Lentz, who provided information about SCSO'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 SCSO's recordkeeping.

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

### **SCSO 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."

Cpt. Lentz provided documentation showing that the public notification, comment and meeting requirements had been satisfied prior to the implementation of SCSO's BWC program on February 1, 2021. Specifically, Cpt. Lentz furnished a copy of the minutes of the October 20, 2020, Stearns County

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<sup>1</sup> According to the Stearns County Sheriff's Office website, the Campus Deputy Unit "provides weapons screening and overall security for county and court buildings on the downtown [St. Cloud] campus as well as at the West Service Center located in Waite Park."

<sup>2</sup> 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 SCSO, these terms may be used interchangeably in this report.

Board meeting, which noted that “a public hearing was held on the issue of Body Worn Camera Recorders by staff of the Stearns County Sheriff’s Department. Patrol Captain Jon Lenz [sic] provided a brief overview. Chair Lenzmeier opened the public hearing for public comment.” The minutes note that multiple written comments were received and reviewed.

Rampart located a press release from SCSO dated September 23, 2020, announcing the proposed BWC program. The press release included a link to the proposed BWC policy and invited members of the public to submit written comments via mail or email, and to attend a public hearing to be held as part of the Stearns County Board of Commissioners meeting on October 20, 2020. Rampart also located multiple news stories in local print and broadcast media about the proposed BWC program.

Copies of these documents have been retained in Rampart’s audit files. In our opinion, Stearns County Sheriff’s Office met the public notice and comment requirements prior to the implementation of their BWC program.

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.”

Cpt. Lentz furnished to Rampart a copy of SCSO’s written BWC policy, as well as a link to SCSO’s BWC policy, which was posted on the Stearns County website. Rampart verified that this link worked at the time of receipt. In our opinion, Stearns County Sheriff’s Office is compliant with the requirements of §626.8473 Subd. 3(a).

### **SCSO BWC WRITTEN POLICY**

As part of this audit, we reviewed SCSO’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 SCSO BWC policy is compliant with respect to clauses 2 – 6.

### **SCSO BWC Data Retention**

Section 426.7.1 of SCSO'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."

Cpt. Lentz also provided a screen capture of the retention settings within the BWC video management system. In reviewing that, we noted a retention period of 30 days for the "Training-Equip Check" category. Minnesota Statute §13.825 Subd. 3(a) specifies that all BWC data must be retained for at least 90 days, with certain categories subject to longer minimum retention periods. During the audit, Cpt. Lentz advised us that the 30-day retention period for the "Training-Equip Check" category had been mistakenly changed from 90 days by another administrator, and was corrected within approximately 36 hours. The auditor confirmed that the retention setting had been corrected to 90 days at the time of the audit.

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.

In reviewing the written BWC policy and the associated retention settings, we noted that the first and third categories were not specifically addressed, though the retention schedule did list a retention period of 1100 days (approximately three years) for data categorized as "Use of Force."

Prior to the completion of this report, SCSO 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 426.7.1 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, SCSO furnished a revised copy of the BWC policy that replaces "may" with "shall" to reflect the statutory language.

SCSO 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.

SCSO's BWC policy requires that each deputy 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, SCSO's amended written BWC policy is compliant with respect to applicable data retention requirements as of the date of this report.

### **SCSO BWC Data Destruction**

As discussed above, SCSO'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 (5.9.2), 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, SCSO's written BWC policy is compliant with respect to the applicable data destruction requirements.

### **SCSO BWC Data Access**

Any request for access to BWC data by data subjects would be made in writing to the SCSO Records Department or the BWC Coordinator (Cpt. Lentz), either via email or by submitting SCSO's preferred data request form. The Records Department reviews and fulfills each request in accordance with the provisions of §13.825 Subd. 4(b).

SCSO BWC data is shared with other law enforcement agencies for evidentiary purposes only. All such requests must be made in writing to the SCSO Records Department. Existing verbal agreements between SCSO and other area law enforcement agencies address data classification, destruction and security requirements, as specified in §13.825 Subd. 8(b). Access to SCSO BWC data for outside agencies is provided via physical media such as USB flash drives. SCSO plans to transition to the use of an expiring email link in the future.

We recommend that SCSO obtain a written acknowledgement from any outside law enforcement agency that any BWC data obtained from SCSO 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, SCSO's written BWC policy is compliant with respect to the applicable data access requirements.

### **SCSO BWC Data Classification**

SCSO 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.

### **SCSO BWC Internal Compliance Verification**

The Supervisor Responsibilities section of the SCSO BWC policy states that supervisors are responsible for "[r]andomly reviewing BWC recorded media at least once per month to ensure compliance with this policy and to identify performance areas in which additional training or guidance may be needed." Cpt. Lentz confirmed that these reviews are completed at the sergeant level on a monthly basis.

The Accountability section of SCSO's BWC policy states that "[a]ny member who accesses or releases recordings without authorization may be subject to discipline... Any willful violation of this policy constitutes just cause for discipline, including suspension without pay up to and including termination..."

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

### **SCSO BWC Program and Inventory**

SCSO currently possesses 12 WatchGuard V300 body-worn cameras.

The SCSO 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 SCSO 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." Cpt. Lentz advised that this is accomplished through the creation of a test recording to ensure the recorder is operating correctly.

While SCSO does not maintain a separate log of BWC deployment or use, Cpt. Lentz 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 SCSO payroll records.

As of the date of the audit, SCSO maintained 3,991 BWC events.

The Prohibited Use of Audio/Video Recorders section of the SCSO 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 SCSO, noting that this is a known issue with the Lexipol BWC policy SCSO utilizes. While Lexipol has 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.

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

As these cell phones are owned and maintained by SCSO, 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, SCSO 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, SCSO’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.

### **SCSO BWC Physical, Technological and Procedural Safeguards**

SCSO 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 SCSO BWC data must be approved by the Records Department or Cpt. Lentz and are fulfilled via physical media such as USB flash drives. A similar method is employed to submit SCSO BWC data to the Stearns County Attorney’s Office.

### **Enhanced Surveillance Technology**

SCSO 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 SCSO 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 determine whether this data was accurately documented in SCSO records.

We noted that while BWC recordings were consistently labeled with the correct CFS or ICR number, there were numerous instances in which the call type was incorrect. Cpt. Lenz advised us that this had occurred due to a misunderstanding about an update that was made, and that he was in the process of reviewing and correcting the mislabeled call types. Due to the length of the retention period associated with the misapplied call type, there was no danger of recordings being inadvertently deleted prior to the label being corrected.

### **Audit Conclusions**

In our opinion, as of the date of this report the Stearns 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

8/11/2023



## APPENDIX A:

Policy 426 Stearns County Sheriff's Office Stearns County SO Policy Manual Copyright Lexipol, LLC 2023/01/31, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 1 Body Worn Camera Recorders 426.1 PURPOSE AND SCOPE The primary purpose and use of Body Worn Camera Recorders is to capture evidence arising from police-citizen encounters. This policy provides guidelines for the use, management, access, storage, retrieval and retention of audio-visual media recorded by Body Worn Camera(s) (BWC) systems by members of this office while in the performance of their duties (Minn. Stat. § 626.8473). Compliance with these guidelines is mandatory, but it is recognized that deputies must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain and rapidly evolving. This policy applies to all Stearns County Sheriff's Office (SCSO) personnel and governs the use of BWC in the course of official duties. It does not apply to use of squad-based (dash camera) recording systems which are governed under Stearns County Sheriff's Office Policy 423, Mobile Video Recorders, or the use of BWC in the Stearns County Jail by correctional staff, see Body Worn Mobile Video Recorder in the Stearns County Sheriff's Office Custody Manual, policy 17.1. The Sheriff or Sheriff's designee may supersede this policy to individual deputies by providing specific instructions or standard operating procedures for BWC use in official duties other than patrol. This policy does not apply to audio/video recordings, interviews or interrogations conducted at any Stearns County Sheriff's Office facility, undercover operations, wiretaps or eavesdropping (concealed listening devices) unless captured by a BWC device. 426.1.1 DEFINITIONS Definitions related to this policy: Body Worn Camera - A device worn by a licensed deputy that is capable of both video and audio recording of the deputy's activities and interactions with others or collecting multimedia evidence as part of an investigation. This does not include a SCSO issued phone, the iCrimefighter app, or other similar apps. Body Worn Camera Coordinator - The member designated by the Sheriff to carry out the duties contained in this policy and the statutory responsibilities governing BWC. County - The County of Stearns. Deputy - A licensed peace officer employed by the Stearns County Sheriff's Office. Official Duties - for purposes of this policy, official duties means that the deputy is on duty and performing authorized law enforcement service on behalf of the Stearns County Sheriff's Office. MGDPA or Data Practices Act - The Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et. seq. Evidentiary Value - Information that may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/01/31, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 2 in considering an allegation against a Stearns County Sheriff's Deputy or other law enforcement officer. Consensual Police Contact - 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 would include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood. Adversarial - a law enforcement encounter with a person(s) 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, cursing, yelling, or shouting. Encounters in which a citizen demands to be recorded or

initiates recording on his or her own are deemed adversarial. Unintentional Recording - a video recording that results from a deputy's inadvertence or mistake in operating the deputy's BWC, provided that no portion of the resulting recording has evidentiary value. Examples would include, but are not limited to, recordings made in SCSO locker rooms, restrooms, and recordings made when a deputy was engaged in conversation of a non-business or personal nature with the expectation that the conversation was not being recorded.

**426.2 POLICY** The Stearns County Sheriff's Office may provide deputies with access to BWC for use during the performance of their official duties. The use of BWC is intended to enhance the mission of the Office by accurately capturing contacts between deputies of the Office and the public. Deputy safety is the primary consideration for the use and activation of the BWC.

**426.2.1 BODY WORN CAMERA OBJECTIVES** The Stearns County Sheriff's Office has adopted the use of BWC to accomplish the following objectives: (a) To enhance deputy safety; (b) To document statements and events during the course of an incident, in addition to using an audio recorder when appropriate; (c) To enhance the deputy's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation and presentation; (d) To preserve visual and audio information for use in current and future investigations; (e) To provide a tool for self-critique and field evaluation during deputy training and to assist with on-going training and evaluation; (f) To enhance the public trust by preserving factual representation of deputy-citizen interactions in the form of recorded media; and (g) To assist with the defense of civil actions against deputies and the County.

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**426.3 DEPUTY PRIVACY EXPECTATION** All recordings made by deputies 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. Deputies shall have no expectation of privacy or ownership interest in the content of these recordings.

**426.4 DEPUTY RESPONSIBILITIES** Prior to going into service, each uniformed deputy 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 deputy becomes aware of a malfunction at any time, the deputy shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed deputies should wear the recorder in a conspicuous manner, as demonstrated in training, or otherwise notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. § 626.8473). Any deputy assigned to a non-uniformed position may carry an approved BWC at any time the deputy believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed deputies 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 BWC, the assigned deputy 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. Deputies should document the existence of a recording in any report, CAD comments, or other official record of the contact, including any instance where the recorder malfunctioned or the deputy deactivated the recording (Minn. Stat. § 626.8473), deputies should include the reason for deactivation. Whenever a deputy fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the deputy must document the circumstances and reasons for not activating the BWC in an incident report,

CAD comments, or other documentation of the the event. 426.5 SUPERVISOR RESPONSIBILITIES

Supervisors are responsible for: (a) Ensuring that deputies are properly trained and supervised in the use of BWC according to policy, written procedures and governing law. (b) Determining the proper corrective action when a deputy reports a malfunctioning BWC or system failure. Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/01/31, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 4 (c) Reporting any malfunctions or system failure to the BWC coordinator. (d) Authorizing deactivation of the BWC in situations covered under this policy in section 426.6.3. (e) Ensuring that BWC recorded media are properly uploaded when an incident arises that requires immediate retrieval of the BWC's recorded data (e.g., serious crime scenes, officer-involved shootings, office-involved collisions) and to provide prompt notification of the uploaded event to the BWC coordinator. (f) Randomly reviewing BWC recorded media at least once per month to ensure compliance with this policy and to identify performance areas in which additional training or guidance may be needed. Supervisors will review all reports created by deputies in compliance with 426.4 when a recording was not made and initiate any corrective action deemed necessary or refer to their immediate supervisor.

426.6 ACTIVATION OF THE BWC This policy is not intended to describe every possible situation in which the BWC should be used, although there are many situations where its use is appropriate. Deputies should activate the BWC any time the deputy believes it would be appropriate or valuable to record an incident. The BWC 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 the Dispatch Center. (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording. (e) Any other activity or contact that is likely to yield information having evidentiary value. Deputies 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 deputy 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 deputy expected to jeopardize his/her safety in order to activate a BWC or change the recording media. However, the BWC should be activated in situations described above as soon as reasonably practicable. Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/01/31, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 5

426.6.1 DISCRETIONARY RECORDING Stearns County deputies have discretion to record or not to record general citizen contacts. In exercising this discretion, deputies should give substantial consideration to requests by citizens to cease recording. Stearns County deputies are not required to record events where individuals are being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, the BWC should be activated as necessary to document any use of force and the basis for its use, and any other information having evidentiary value. The BWC need not be activated in this situation when doing so would serve only to record symptoms or behaviors attributable to the mental health issue. 426.6.2 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). Deputies of the Office may surreptitiously record any conversation during the course of a criminal investigation in which the deputy reasonably believes that such a recording will be lawful and beneficial to the investigation. Deputies shall not surreptitiously record another deputy or other office personnel without a court order unless lawfully authorized by the Sheriff or the authorized designee.

**426.6.3 CESSATION OF RECORDING** Once activated, the portable recorder should remain on continuously until the deputy 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. The BWC may be deactivated if the incident or event is of such a duration that the BWC is deactivated to conserve recording times and battery life. In an officer-involved shooting or use of force incident that results in substantial bodily harm the BWC will remain activated until the supervisor on scene authorizes cessation of recording.

**426.6.4 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.

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

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- (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.

Any time a deputy 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.

**426.7.1 RETENTION REQUIREMENTS** Portable recordings may be considered criminal investigative data subject to public disclosure (Minn. Stat. § 13.82, Subd. 7). All recordings shall be retained for a period consistent with the requirements of the office's records retention schedule but in no event for a period less than 180 days. If an individual captured in a recording submits a written request, the recording may be retained for an additional time. The BWC coordinator will be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

**426.8 REVIEW OF RECORDED MEDIA FILES** When preparing written reports, deputies should review their recordings as a resource (See the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, deputies shall not retain personal copies of recordings. Deputies 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 deputy'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 Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/01/31, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 7 (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 deemed necessary under Minn. Stat. 13.82, Subd. 15 or disclosure is required by law or order of the court (Minn. Stat. § 13.82, Subd. 7; Minn. Stat. § 13.825, Subd. 2).

#### 426.8.1 DATA SECURITY SAFEGUARDS AND MISCELLANEOUS COMPLIANCE

The Stearns County Sheriff's Office employs security safeguards that meet the requirements of the MGDPA and other applicable law. The Stearns County Sheriff's Office will maintain further security and storage safeguards in procedures that are specific to the selected BWC system. The Stearns County Sheriff's Office will: (a) Require audit and logging capabilities for its selected BWC system. (b) Maintain logs that include the date and time BWC data were collected and the applicable classification of the data. (c) Maintain backups of BWC data. Stearns County Sheriff's Office personnel must not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the Sheriff, the Sheriff's designee, or this policy. The Stearns County Sheriff's Office will obtain an independent biennial audit of its BWC recording system as required by Minn. Stat. § 13.825, Subd. 9.

#### 426.8.2 ADMINISTERING ACCESS TO PORTABLE RECORDING SYSTEM DATA

Under Minnesota Law, the following are considered data subjects for purposes of administering access to the BWC system: (a) Any person or entity whose image or voice is documented in the data. (b) The officer who collected the data. (c) Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording. BWC recordings are presumptively private or nonpublic and as such are classified as private data about the data subjects unless there is a specific law that provides differently. As a result: (a) BWC data pertaining to individuals as defined in Minn. Stat. § 13.02, subd. 8 (i.e. natural person, but not a business) are presumed to be private data. (b) BWC data not on individuals (e.g. a business, agency) are presumed to be nonpublic data. Some BWC recordings are public data. Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/01/31, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 8 (a) Data that documents the discharge of a firearm by a peace officer in the course of duty, other than for training or the euthanizing of an animal that is sick, injured or dangerous. (b) Data that document the use of force by a peace officer that results in substantial bodily harm. (c) Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any subject (other than a peace officer) who has not consented to the public release must be redacted. In addition, any data on undercover peace officers must be redacted. (d) Data that are public personnel data under Minn. Stat. § 13.43, subd. 2(5). Some BWC recordings are confidential data. BWC data that are collected or created as part of an active criminal investigation are governed by Minn. Stat. § 13.82 subd. 7 and are classified as "confidential" or "protected nonpublic data". This classification takes precedence over the "private" and "public" classifications listed above. Exceptions: If another provision of the MGDPA classifies data as private or otherwise not public, the data retains that other classification. For instance, data that reveals protected identities under Minn. Stat. § 13.82 subd. 17, (e.g. certain victims, witnesses and others) or other applicable law must not be released even if it would otherwise fit into one of the public categories listed

above. Additionally, the Sheriff may withhold otherwise public data if it is clearly offensive to common sensibilities. Stearns County Sheriff's Office personnel shall refer members of the media or public seeking access to BWC data to the BWC data coordinator or data practice designee, who shall process the request in accordance with the MGDPA and other governing laws. In particular, an individual shall be allowed to review recorded BWC data about him or herself and other data subjects, but shall not be granted access: (a) If the data was collected or created as part of an active investigation; (b) To portions of the data that the Stearns County Sheriff's Office would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82 Subd. 17. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines; (a) Data on other individuals in the recording who do not consent to the release must be redacted. (b) Data that would identify undercover Stearns County Sheriff's Office peace officers, or other law enforcement undercover peace officers, must be redacted. (c) Data on other Stearns County Sheriff's Office peace officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted. No Stearns County Sheriff's Office personnel may have access to the Office's BWC system data except for legitimate law enforcement or data administration purposes. Compliance with this Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/01/31, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 9 paragraph satisfies the requirement for the Sheriff or designee to authorize such access in writing. For purposes of this section a legitimate law enforcement or data administration need includes the following: (a) For use when preparing reports or statements or providing testimony. (b) By a deputy or supervisor to assess proper functioning of the BWC system. (c) By a Stearns County Sheriff's Office investigator assigned to a related criminal investigation, or after approval of a supervisor, for official investigations. (d) By a supervisor to assess deputy performance and BWC policy compliance. (e) As permitted in the Officer Involved Shootings and Deaths Policy 311. (f) By a Field Training Officer to assess deputy performance. (g) Stearns County Sheriff's Office deputies may display portions of portable recording system footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, Subd. 15. Stearns County deputies should generally limit these displays in order 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. In addition, BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes and that are documented in writing at the time of the disclosure and BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law. (h) For data administration purposes, including responding to a request for data under the MGDPA. 426.9 COORDINATOR The Sheriff or the authorized designee should designate a coordinator responsible for (Minn. Stat. § 626.8473; Minn. Stat. § 13.825): (a) Ordering, issuing, retrieving and storing all BWC; (b) Deleting BWC data when required pursuant to a court order or in accordance with applicable laws; (c) Maintaining logs reflecting BWC assignment, including each BWC serial number, dates used, deputies assigned, and history of malfunction or system failure; (d) 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). Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/01/31, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 10 (e) Establishing procedures for accessing data and recordings: (a) These procedures should include the process to obtain written authorization for access to non-public data by SCSO personnel and members of other governmental entities and agencies. (f) Establishing procedures for logging and/or auditing access. (g) Establishing procedures for transferring, downloading, tagging or marking events. (h) Establishing an inventory of portable recorders including: (a) Total number of devices owned or maintained by the Stearns County Sheriff's Office. (b) Daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used. (c) Total amount of recorded audio and video data collected by the devices and maintained by the Stearns County Sheriff's Office. (i) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9. (j) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Stearns County Sheriff's Office that expands the type or scope of surveillance capabilities of the office's portable recorders. (k) Ensuring that this Body Worn Camera Recorder Policy is Posted on the Office website page. 426.10 PROHIBITED USE OF AUDIO/VIDEO RECORDERS Deputies 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. Deputies 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. Stearns County Sheriff's Office personnel shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office. Deputies are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Sergeant. Any deputy 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. Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/01/31, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 11 The BWC should not be activated in any court of law, unless authorized by a judge or the deputy anticipates witnessing a criminal event or be involved in or witnessing an adversarial encounter or use of force incident. 426.11 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). Any willful violation of this policy constitutes just cause for discipline, including suspension without pay up to and including termination. Further, any Stearns County Sheriff's Office employee who willfully violates the provisions of this policy, or whose conduct constitutes the knowing unauthorized acquisition of not public data, as defined in Minn. Stat. 13.055, subd. 1, may be guilty of a misdemeanor

## APPENDIX B:

Policy 426 Stearns County Sheriff's Office Stearns County SO Policy Manual Copyright Lexipol, LLC 2023/08/04, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 1 Body Worn Camera Recorders 426.1 PURPOSE AND SCOPE The primary purpose and use of Body Worn Camera Recorders is to capture evidence arising from police-citizen encounters. This policy provides guidelines for the use, management, access, storage, retrieval and retention of audio-visual media recorded by Body Worn Camera(s) (BWC) systems by members of this office while in the performance of their duties (Minn. Stat. § 626.8473). Compliance with these guidelines is mandatory, but it is recognized that deputies must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain and rapidly evolving. This policy applies to all Stearns County Sheriff's Office (SCSO) personnel and governs the use of BWC in the course of official duties. It does not apply to use of squad-based (dash camera) recording systems which are governed under Stearns County Sheriff's Office Policy 423, Mobile Video Recorders, or the use of BWC in the Stearns County Jail by correctional staff, see Body Worn Mobile Video Recorder in the Stearns County Sheriff's Office Custody Manual, policy 17.1. The Sheriff or Sheriff's designee may supersede this policy to individual deputies by providing specific instructions or standard operating procedures for BWC use in official duties other than patrol. This policy does not apply to audio/video recordings, interviews or interrogations conducted at any Stearns County Sheriff's Office facility, undercover operations, wiretaps or eavesdropping (concealed listening devices) unless captured by a BWC device.

426.1.1 DEFINITIONS Definitions related to this policy: Body Worn Camera - A device worn by a licensed deputy that is capable of both video and audio recording of the deputy's activities and interactions with others or collecting multimedia evidence as part of an investigation. This does not include a SCSO issued phone, the iCrimefighter app, or other similar apps. Body Worn Camera Coordinator - The member designated by the Sheriff to carry out the duties contained in this policy and the statutory responsibilities governing BWC. County - The County of Stearns. Deputy - A licensed peace officer employed by the Stearns County Sheriff's Office. Official Duties - for purposes of this policy, official duties means that the deputy is on duty and performing authorized law enforcement service on behalf of the Stearns County Sheriff's Office. MGDPA or Data Practices Act - The Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et. seq. Evidentiary Value - Information that may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/08/04, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 2 in considering an allegation against a Stearns County Sheriff's Deputy or other law enforcement officer. Consensual Police Contact - 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 would include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood. Adversarial - a law enforcement encounter with a person(s) 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, cursing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial. Unintentional Recording - a video recording that results from a deputy's inadvertence or mistake in operating the deputy's BWC, provided that no portion of the resulting recording has evidentiary value. Examples would include, but are not limited to, recordings made in SCSO locker rooms, restrooms, and recordings made when a deputy was engaged in conversation of a non-business or personal nature with the expectation that the conversation was not being recorded.

**426.2 POLICY** The Stearns County Sheriff's Office may provide deputies with access to BWC for use during the performance of their official duties. The use of BWC is intended to enhance the mission of the Office by accurately capturing contacts between deputies of the Office and the public. Deputy safety is the primary consideration for the use and activation of the BWC.

**426.2.1 BODY WORN CAMERA OBJECTIVES** The Stearns County Sheriff's Office has adopted the use of BWC to accomplish the following objectives: (a) To enhance deputy safety; (b) To document statements and events during the course of an incident, in addition to using an audio recorder when appropriate; (c) To enhance the deputy's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation and presentation; (d) To preserve visual and audio information for use in current and future investigations; (e) To provide a tool for self-critique and field evaluation during deputy training and to assist with on-going training and evaluation; (f) To enhance the public trust by preserving factual representation of deputy-citizen interactions in the form of recorded media; and (g) To assist with the defense of civil actions against deputies and the County.

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**426.3 DEPUTY PRIVACY EXPECTATION** All recordings made by deputies 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. Deputies shall have no expectation of privacy or ownership interest in the content of these recordings.

**426.4 DEPUTY RESPONSIBILITIES** Prior to going into service, each uniformed deputy 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 deputy becomes aware of a malfunction at any time, the deputy shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed deputies should wear the recorder in a conspicuous manner, as demonstrated in training, or otherwise notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. § 626.8473). Any deputy assigned to a non-uniformed position may carry an approved BWC at any time the deputy believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed deputies 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 BWC, the assigned deputy shall record his/her name, badge number and the current date and time at the beginning of the shift or other period of use, regardless of whether any activity was recorded. Deputies should document the existence of a recording in any report, CAD comments, or other official record of the contact, including any instance where the recorder malfunctioned or the deputy deactivated the recording (Minn. Stat. § 626.8473), deputies should include the reason for deactivation. Whenever a deputy fails to record an activity that is required to be recorded under this policy or captures only a part

of the activity, the deputy must document the circumstances and reasons for not activating the BWC in an incident report, CAD comments, or other documentation of the the event. 426.5 SUPERVISOR RESPONSIBILITIES Supervisors are responsible for: (a) Ensuring that deputies are properly trained and supervised in the use of BWC according to policy, written procedures and governing law. (b) Determining the proper corrective action when a deputy reports a malfunctioning BWC or system failure. (c) Reporting any malfunctions or system failure to the BWC coordinator. Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/08/04, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 4 (d) Authorizing deactivation of the BWC in situations covered under this policy in section 426.6.3. (e) Ensuring that BWC recorded media are properly uploaded when an incident arises that requires immediate retrieval of the BWC's recorded data (e.g., serious crime scenes, officer-involved shootings, office-involved collisions) and to provide prompt notification of the uploaded event to the BWC coordinator. (f) Randomly reviewing BWC recorded media at least once per month to ensure compliance with this policy and to identify performance areas in which additional training or guidance may be needed. Supervisors will review all reports created by deputies in compliance with 426.4 when a recording was not made and initiate any corrective action deemed necessary or refer to their immediate supervisor. 426.6 ACTIVATION OF THE BWC This policy is not intended to describe every possible situation in which the BWC should be used, although there are many situations where its use is appropriate. Deputies should activate the BWC any time the deputy believes it would be appropriate or valuable to record an incident. The BWC 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 the Dispatch Center. (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording. (e) Any other activity or contact that is likely to yield information having evidentiary value. Deputies 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 deputy 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 deputy expected to jeopardize his/her safety in order to activate a BWC or change the recording media. However, the BWC should be activated in situations described above as soon as reasonably practicable. Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/08/04, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 5 426.6.1 DISCRETIONARY RECORDING Stearns County deputies have discretion to record or not to record general citizen contacts. In exercising this discretion, deputies should give substantial consideration to requests by citizens to cease recording. Stearns County deputies are not required to record events where individuals are being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, the BWC should be activated as necessary to document any use of force and the basis for its use, and any other information having evidentiary value. 426.6.2 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). Deputies of the

Office may surreptitiously record any conversation during the course of a criminal investigation in which the deputy reasonably believes that such a recording will be lawful and beneficial to the investigation. Deputies shall not surreptitiously record another deputy or other office personnel without a court order unless lawfully authorized by the Sheriff or the authorized designee.

**426.6.3 CESSATION OF RECORDING** Once activated, the portable recorder should remain on continuously until the deputy 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. The BWC may be deactivated if the incident or event is of such a duration that the BWC is deactivated to conserve recording times and battery life. In an officer-involved shooting or use of force incident that results in substantial bodily harm the BWC will remain activated until the supervisor on scene authorizes cessation of recording.

**426.6.4 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.

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

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(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. Any time a deputy 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.

**426.7.1 RETENTION REQUIREMENTS** Portable recordings may be considered criminal investigative data subject to public disclosure (Minn. Stat. § 13.82, Subd. 7). All recordings shall be retained for a period consistent with the requirements of the office's records retention schedule but in no event for a period less than 90 days. Recordings that document the discharge of a firearm by a peace officer in the course of duty if a notice is required under MSS 626.553, subd. 2,, or the use of force by a peace officer that results in substantial bodily harm, or when a formal complaint has been made against a peace officer shall be retained in accordance with the office BWC retention schedule but in any event no less than one year. If an individual captured in a recording submits a written request, the recording shall be retained for an additional time of 180 days. The BWC coordinator will be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

**426.8 REVIEW OF RECORDED MEDIA FILES** When preparing written reports, deputies should review their recordings as a resource (See the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, deputies shall not retain personal copies of recordings. Deputies 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 deputy'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 Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/08/04, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 7 (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 records supervisor or BWC coordinator 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 deemed necessary under Minn. Stat. 13.82, Subd. 15 or disclosure is required by law or order of the court (Minn. Stat. § 13.82, Subd. 7; Minn. Stat. § 13.825, Subd. 2).

426.8.1 DATA SECURITY SAFEGUARDS AND MISCELLANEOUS COMPLIANCE The Stearns County Sheriff's Office employs security safeguards that meet the requirements of the MGDPA and other applicable law. The Stearns County Sheriff's Office will maintain further security and storage safeguards in procedures that are specific to the selected BWC system. The Stearns County Sheriff's Office will: (a) Require audit and logging capabilities for its selected BWC system. (b) Maintain logs that include the date and time BWC data were collected and the applicable classification of the data. (c) Maintain backups of BWC data. Stearns County Sheriff's Office personnel must not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the Sheriff, the Sheriff's designee, or this policy. The Stearns County Sheriff's Office will obtain an independent biennial audit of its BWC recording system as required by Minn. Stat. § 13.825, Subd. 9.

426.8.2 ADMINISTERING ACCESS TO PORTABLE RECORDING SYSTEM DATA Under Minnesota Law, the following are considered data subjects for purposes of administering access to the BWC system: (a) Any person or entity whose image or voice is documented in the data. (b) The officer who collected the data. (c) Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording. BWC recordings are presumptively private or nonpublic and as such are classified as private data about the data subjects unless there is a specific law that provides differently. As a result: Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/08/04, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 8 (a) BWC data pertaining to individuals as defined in Minn. Stat. § 13.02, subd. 8 (i.e. natural person, but not a business) are presumed to be private data. (b) BWC data not on individuals (e.g. a business, agency) are presumed to be nonpublic data. Some BWC recordings are public data. (a) Data that documents the discharge of a firearm by a peace officer in the course of duty, other than for training or the euthanizing of an animal that is sick, injured or dangerous. (b) Data that document the use of force by a peace officer that results in substantial bodily harm. (c) Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any subject (other than a peace officer) who has not consented to the public release must be redacted. In addition, any data on undercover peace officers must be redacted. (d) Data that are public personnel data under Minn. Stat. § 13.43, subd. 2(5). Some BWC recordings are confidential data. BWC data that are collected or created as part of an active criminal investigation are governed by Minn. Stat. § 13.82 subd. 7 and are classified as "confidential" or "protected nonpublic data". This classification takes precedence over the "private" and "public"

classifications listed above. Exceptions: If another provision of the MGDPA classifies data as private or otherwise not public, the data retains that other classification. For instance, data that reveals protected identities under Minn. Stat. § 13.82 subd. 17, (e.g. certain victims, witnesses and others) or other applicable law must not be released even if it would otherwise fit into one of the public categories listed above. Additionally, the Sheriff may withhold otherwise public data if it is clearly offensive to common sensibilities. Stearns County Sheriff's Office personnel shall refer members of the media or public seeking access to BWC data to the records supervisor or BWC coordinator, who shall process the request in accordance with the MGDPA and other governing laws. In particular, an individual shall be allowed to review recorded BWC data about him or herself and other data subjects, but shall not be granted access: (a) If the data was collected or created as part of an active investigation; (b) To portions of the data that the Stearns County Sheriff's Office would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82 Subd. 17. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines; (a) Data on other individuals in the recording who do not consent to the release must be redacted. Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/08/04, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 9 (b) Data that would identify undercover Stearns County Sheriff's Office peace officers, or other law enforcement undercover peace officers, must be redacted. (c) Data on other Stearns County Sheriff's Office peace officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted. No Stearns County Sheriff's Office personnel may have access to the Office's BWC system data except for legitimate law enforcement or data administration purposes. Compliance with this paragraph satisfies the requirement for the Sheriff or designee to authorize such access in writing. For purposes of this section a legitimate law enforcement or data administration need includes the following: (a) For use when preparing reports or statements or providing testimony. (b) By a deputy or supervisor to assess proper functioning of the BWC system. (c) By a Stearns County Sheriff's Office investigator assigned to a related criminal investigation, or after approval of a supervisor, for official investigations. (d) By a supervisor to assess deputy performance and BWC policy compliance. (e) As permitted in the Officer Involved Shootings and Deaths Policy 311. (f) By a Field Training Officer to assess deputy performance. (g) Stearns County Sheriff's Office deputies may display portions of portable recording system footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, Subd. 15. Stearns County deputies should generally limit these displays in order 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. In addition, BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes and that are documented in writing at the time of the disclosure and BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law. (h) For data administration purposes, including responding to a request for data under the MGDPA. 426.9 COORDINATOR The Sheriff or the authorized designee should designate a coordinator responsible for (Minn. Stat. § 626.8473; Minn. Stat. § 13.825): (a) Ordering, issuing, retrieving and storing all BWC; (b) Deleting BWC data when required pursuant to a court order or in accordance with applicable laws; (c) Maintaining logs reflecting BWC assignment, including each BWC serial number, dates used, deputies assigned, and history of malfunction or system failure; Stearns

County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/08/04, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 10 (d) Establishing procedures for the security, storage and maintenance of data and recordings. (a) The coordinator should work with the records supervisor 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). (e) Establishing procedures for accessing data and recordings: (a) These procedures should include the process to obtain written authorization for access to non-public data by SCSO personnel and members of other governmental entities and agencies. (f) Establishing procedures for logging and/or auditing access. (g) Establishing procedures for transferring, downloading, tagging or marking events. (h) Establishing an inventory of portable recorders including: (a) Total number of devices owned or maintained by the Stearns County Sheriff's Office. (b) Daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used. (c) Total amount of recorded audio and video data collected by the devices and maintained by the Stearns County Sheriff's Office. (i) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9. (j) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Stearns County Sheriff's Office that expands the type or scope of surveillance capabilities of the office's portable recorders. (k) Ensuring that this Body Worn Camera Recorder Policy is Posted on the Office website page.

**426.10 PROHIBITED USE OF AUDIO/VIDEO RECORDERS** Deputies 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. Deputies 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. Stearns County Sheriff's Office personnel shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office. Deputies are prohibited from using personally owned recording devices while on-duty. Stearns County Sheriff's Office Stearns County SO Policy Manual Body Worn Camera Recorders Copyright Lexipol, LLC 2023/08/04, All Rights Reserved. Published with permission by Stearns County Sheriff's Office Body Worn Camera Recorders - 11 Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule. The BWC should not be activated in any court of law, unless authorized by a judge or the deputy anticipates witnessing a criminal event or be involved in or witnessing an adversarial encounter or use of force incident. **426.11 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). Any willful violation of this policy constitutes just cause for discipline, including suspension without pay up to and including termination. Further, any Stearns County Sheriff's Office employee who willfully violates the provisions of this policy, or whose conduct constitutes the knowing unauthorized acquisition of not public data, as defined in Minn. Stat. 13.055, subd. 1, may be guilty of a misdemeanor