



INDEPENDENT AUDITOR'S REPORT

Cass County Sheriff's Office



APRIL 10TH, 2024
RAMPART AUDIT LLC

Audit Overview and Recommendations

Dear Cass County Board and Sheriff Welk:

We have audited the body-worn camera (BWC) program of the Cass County Sheriff's Office (CCSO) for the two-year period ended 3/17/2024. 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 Cass County Sheriff's Office. Our responsibility is to express an opinion on the operations of this program based on our audit.

On March 18, 2024, Rampart Audit LLC (Rampart) met with Sgt. Wade Schultz and Sgt. John Yochum, 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.

Sgt. Schultz advised Rampart that CCSO had operated a BWC program for several years prior to the advent of the public comment requirements noted above. Because the statute did not indicate whether these requirements also applied to existing BWC programs, CCSO elected to solicit comments and hold a public hearing to ensure compliance. Sgt. Schultz provided the following documents as evidence of the steps that CCSO had taken to meet the public notification, comment and meeting requirements:

1. An article from *The Bemidji Pioneer*, dated October 18, 2016, reporting that a public hearing would be held at 9:00 A.M. on November 1, 2016, during the Cass County Board meeting to discuss CCSO's updated written BWC policy. The public was invited to submit written questions

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.

or comments to the sheriff or county administrator in advance of the public hearing, or to ask questions during the hearing.

2. An article from *The Bemidji Pioneer*, dated November 2, 2016, reporting that a public hearing was held during the November 1, 2016, Cass County Board meeting, but that no questions or comments were received from the public regarding the BWC policy or program. The article noted that BWCs had already been in use by CCSO for approximately six or seven years at that time, and seemed to be well accepted in the community.

Copies of these documents have been retained in Rampart's audit files. In our opinion, the Cass County Sheriff's Office met the public notice and comment requirements contained in §626.8473 Subd. 2 in a timely manner once those provisions became effective.

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."

Rampart verified that there was a working link to CCSO's BWC policy on the Cass County website. In our opinion, the Cass County Sheriff's Office is compliant with the requirements of §626.8473 Subd. 3(a).

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) A prohibition on altering, erasing or destroying any recording made with a peace officer's portable recording system or data and metadata related to the recording prior the expiration of the applicable retention period under section 13.825 Subdivision 3, except that the full, unedited, and unredacted recording of a peace officer using deadly force must be maintained indefinitely;
- 3) A mandate that a portable recording system be worn at or above the mid-line of the waist in a position that maximizes the recording system's capacity to record video footage of the officer's activities;
- 4) A mandate that officers assigned a portable recording system wear and operate the system in compliance with the agency's policy adopted under this section while performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement official;
- 5) A mandate that, notwithstanding any law to the contrary, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency must allow the deceased individual's next of kin, the legal representative of the deceased individual's next of kin, and the other parent of the deceased individual's child, upon their request, to inspect all portable

recording system data, redacted no more than what is required by law, documenting the incident within five days of the request, with the following exception:

- a) A law enforcement agency may deny a request if the agency determines that there is a compelling reason that inspection would interfere with an active investigation. If the agency denies access, the chief law enforcement officer must provide a prompt, written denial to the individual who requested the data with a short description of the compelling reason access was denied and must provide notice that relief may be sought from the district court pursuant to section 13.82 subdivision 7;
- 6) A mandate that, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency shall release all portable recording system data, redacted no more than required by law, documenting the incident no later than 14 days after the incident, unless the chief law enforcement officer asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by section 13.82 subdivision 7;
- 7) Procedures for testing the portable recording system to ensure adequate functioning;
- 8) 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;
- 9) Circumstances where recording is mandatory, prohibited, or at the discretion of the officer using the system;
- 10) Circumstances under which a data subject must be given notice of a recording;
- 11) Circumstances under which a recording may be ended while an investigation, response, or incident is ongoing;
- 12) Procedures for the secure storage of portable recording system data and the creation of backup copies of the data; and
- 13) 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.

In our opinion, the CCSO BWC policy is compliant with respect to clauses 7 – 11.

Due to their complexity and interrelatedness, clauses 1 and 12 are discussed separately below. Clause 13 is also discussed separately.

Clauses 2 – 6 are newly added as a result of 2023 legislation and will also be discussed separately below.

CCSO BWC Data Retention

At the time of our audit, the Cass County Sheriff's Office's written BWC policy contained only limited detail concerning its retention schedule, including a requirement that all BWC data be retained for a minimum of 90 days, without exception, and noting that BWC data shall be retained for an additional period when so requested by a data subject. The remaining retention information was embedded in its video management system, with the retention period determined based on the call type assigned to each video. While a review of those settings indicated that they met or exceeded the requirements specified for each category of BWC data enumerated in §13.825 Subd. 3(b), with the exception of the newly-implemented requirement that portable recording system data documenting a peace officer's use

of deadly force be maintained indefinitely, Sgt. Schultz advised that CCSO's BWC policy would be revised to identify and incorporate each of the statutorily required retention periods.

Prior to the issuance of this report, Sgt. Schultz furnished an updated BWC policy that included the following retention periods:

- Portable recording system data that are not active or inactive criminal investigative data, or otherwise subject to a longer retention period: 90 days.
- Portable recording system data documenting: (i) the discharge of a firearm by a peace officer in the course of duty if a notice is required under section 626.553, subdivision 2; or (ii) the use of force by a peace officer that results in substantial bodily harm; or (iii) a formal complaint is made against a peace officer related to the event: 1 year.
- Portable recording system data documenting a peace officer's use of deadly force: indefinite.
- When requested in writing by a data subject, BWC data shall be retained for an additional period requested by the subject of up to 180 days.

CCSO's policy further notes that they "may retain a recording for as long as reasonably necessary for possible evidentiary or exculpatory use related to the incident with which the data were collected." The updated policy also added language clarifying that "[n]o portable recording system or metadata may be altered, erased, or destroyed prior to the expiration of the applicable retention period," as described in Clause 2 of the Policy section of this report.

CCSO employs Motorola (previously branded as Watchguard) body-worn cameras, with all BWC data stored on Motorola's secure, cloud-based servers. CCSO manages BWC data retention automatically through its Motorola software, based on the data classification assigned to each video at the time of upload.

Upon completion of recording, CCSO BWC videos upload to Motorola's cloud automatically through a wireless connection established by the in-squad cameras. In addition, CCSO maintains physical docking stations both in their squads and at the sheriff's office.

CCSO's BWC policy also requires that the deputy assign the appropriate label or labels to each file to identify the nature of the data.

CCSO manages BWC data retention automatically, based on the data classification assigned to each video at the time of upload. If a deputy fails to assign a data classification, the system assigns a default classification of "Unknown" with a retention period of one year. Sgt. Schultz advised that administrators review BWC data monthly to ensure that any recordings classified as "Unknown" are correctly reclassified.

In our opinion, CCSO's revised BWC policy is compliant with respect to the applicable data retention requirements. A copy of this policy has been attached to this report as Appendix B.

CCSO BWC Data Destruction

As discussed in the preceding section, Sgt. Schultz advised us that CCSO BWC data are stored on Motorola's cloud-based servers, with data retention and deletion schedules managed automatically

through the Motorola Video Manger EL [Evidence Library] software based on the assigned data classification of each video.

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

CCSO BWC Data Access

Sgt. Schultz advised us that the CCSO Records Department is responsible for processing requests from members of the public or the media for access to BWC data. All such requests are made in writing via email and are processed in accordance with "the requirements of the Minnesota Government Data Practices Act (MGDPA) and other applicable laws." Any requests pertaining to criminal data are reviewed and approved by the appropriate prosecutor. Any required redaction is performed by Records personnel. Data subjects receive BWC data either on DVD or via a secure weblink.

As discussed in clauses 5 and 6 of the Policy section of this report, the Minnesota State Legislature in 2023 added specific access requirements related to BWC data that document deadly force incidents, and specified that these requirements must be included in the agency's BWC policy:

1. The BWC policy must state that, notwithstanding any law to the contrary, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency must allow the deceased individual's next of kin, the legal representative of the deceased individual's next of kin, and the other parent of the deceased individual's child, upon their request, to inspect all portable recording system data, redacted no more than what is required by law, documenting the incident within five days of the request, unless the agency determines that there is a compelling reason that inspection would interfere with an active investigation. If the agency denies access, the chief law enforcement officer must provide a prompt, written denial to the individual who requested the data with a short description of the compelling reason access was denied and must provide notice that relief may be sought from the district court pursuant to section 13.82 subdivision 7.
2. The BWC policy must state that, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency shall release all portable recording system data, redacted no more than required by law, documenting the incident no later than 14 days after the incident, unless the chief law enforcement officer asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by section 13.82 subdivision 7.

Prior to the issuance of this report, CCSO submitted a revised BWC policy that addresses the new requirements noted above. In our opinion, this revised BWC policy is compliant with respect to the applicable data access requirements.

CCSO's BWC policy does not address sharing with other law enforcement agencies, but states that BWC data may be reviewed "[p]ursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case." Sgt. Schultz advised us that BWC data requests from prosecutors and other law enforcement agencies are made to the Records Department, primarily in writing via email. For those prosecutors and law enforcement agencies with access to Motorola's cloud service, access is provided via secure weblink. Alternatively, BWC data can be shared via physical media such as DVD or USB memory stick.

Prior to the issuance of this report, CCSO submitted an updated BWC policy that added the following clarifying language: 1) "BWC data may be shared with other Law Enforcement agencies only for legitimate purposes that are documented in writing at the time of the disclosure," and 2) "BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law."

We recommend that a copy of all written requests be retained by CCSO for audit purposes, and that CCSO consider the addition of a written reminder of the receiving agency's obligations under §13.825 Subd. 7 and Subd. 8, which include a requirement to maintain BWC data security, when fulfilling requests.

CCSO BWC Data Classification

CCSO's BWC Policy identifies BWC data as private or nonpublic data, and incorporates §13.825 Subd. 2, which identifies the exceptions to these classifications, by reference; consequently, CCSO's BWC policy also addresses the 2023 legislative changes regarding BWC data documenting incidents involving the use of deadly force. In addition, CCSO's revised BWC policy explicitly adds the text of §13.825 Subd. 2 to the written policy.

In our opinion, this policy is compliant with respect to the applicable data classification requirements.

CCSO BWC Internal Compliance Verification

The CCSO BWC Review of Recorded Media Files section states that recorded files may be reviewed "[b]y a supervisor as part of internal audits and reviews as required by Minn. Stat. §626.8473."

Sgt. Schultz advised us that supervisory reviews are conducted as scheduled and that logs are maintained of all such reviews. We recommend adding language to clarify that supervisors are directed to perform such reviews.

The Member Responsibilities section of CCSO's BWC policy includes the following requirements:

1. While on duty, a peace officer may only use a portable recording system issued and maintained by the officer's agency...

2. Prior to going into service, uniformed members will be responsible for making sure that they are equipped with a portable recorder issued by the Office, and that the recorder is in good working order...
3. Deputies on duty with this agency but performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement officer shall wear and operate their assigned body-worn camera in compliance with this policy.

In our opinion, item 3 satisfies the requirement described in Clause 4 of the Policy section of this report, which was added as part of the 2023 legislative updates.

Sgt. Schultz advised us that Motorola's video management software creates an audit log, which records the identity of each user who accesses a BWC file, as well as their activity with that file, such as viewing it.

CCSO's written BWC policy addresses consequences associated with violations of the policy, incorporating §626.8473 by reference, which includes both disciplinary action and potential criminal penalties.

In our opinion, CCSO's revised policy is compliant with respect to the compliance and disciplinary requirements contained in §626.8473 Subd. 3(b)(8).

CCSO BWC Program and Inventory

CCSO currently possesses forty-nine (49) Motorola body-worn cameras, of which forty-six (46) are deployed and three (3) are held on hand as spares.

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. For Patrol personnel, the body-worn cameras are synced to their squad camera systems and are activated automatically anytime the squad's emergency lights are activated.

CCSO's BWC policy states that "[u]niformed members should wear the recorder in a conspicuous manner at or above the mid-line of the waist," which satisfies the requirement described in Clause 3 of the Policy section of this report, which was added as part of the 2023 legislative changes.

Sgt. Schultz advised us that the Cass County Sheriff's Office utilizes an equipment log in their CAD system, which allows each deputy to create a notification that he or she is wearing a body-worn camera, and that it is functioning properly; consequently, the agency is able to determine in real-time the number of BWCs deployed.

As of the audit date, March 18, 2024, CCSO maintained a total of 15,849 video files on the Motorola cloud service. Sgt. Schultz indicated that this total includes both BWC and squad videos. While the Motorola system is capable of providing a count of BWC-only videos, doing so requires filtering by each BWC separately and compiling the total manually. CCSO also maintains multiple portable hard drives containing retained BWC videos from their prior system that they were unable to import into the Motorola cloud system.

CCSO BWC Physical, Technological and Procedural Safeguards

CCSO BWC data are initially recorded to a hard drive in each deputy's BWC. The BWC data then upload automatically via wireless connection through the deputy's squad camera. In the event the wireless upload fails, there are physical docking stations in each squad as well as in the Cass County Sheriff's Office itself.

Deputies are responsible for assigning a label to each recording, which determines the data classification and retention. As discussed earlier in this report, in the event a deputy fails to label a video, the label is set to "Unknown" and the default retention period is set to one year to avoid the accidental loss of data. Supervisors review BWC data monthly to identify and reclassify any recordings labeled "Unknown."

Deputies have view-only access to their own data for report writing, trial preparation, data administration, investigatory purposes and other legitimate law enforcement purposes. All BWC data access is logged automatically and available for audit purposes.

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 (CFS) 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.

Sgt. Schultz and Sgt. Yochum were able to locate BWC videos by identifying responding deputies listed in the CFS notes and reviewing retained BWC videos by date, time and deputy. While this method is effective, we also recommend requiring deputies to tag or otherwise label BWC videos with the CFS or ICR number as a means of simplifying the search process and reducing the likelihood of overlooking related videos.

Rampart Audit, LLC

Audit Conclusions

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

A handwritten signature in black ink, appearing to read "Daniel E. Gazelka", written over a horizontal line.

Daniel E. Gazelka

Rampart Audit LLC

4/10/2024

APPENDIX A:

419 Cass County Sheriff's Office Cass Cnty SO Policy Manual Portable Audio/Video Recorders 419.1 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 Cass County Sheriff's Office facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices). 419.1.1 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. 419.2 POLICY The Cass 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. 419.3 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 ownership interest in the content of these recordings. 419.4 MEMBER RESPONSIBILITIES Prior to going into service, uniformed members will be responsible for making sure that they are 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 their supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner at or above the mid-line of the waist and 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. Copyright Lexipol, LLC 2023/12/18, All Rights Reserved. Published with permission by Cass County Sheriff's Office Portable Audio/Video Recorders - 293 Cass County Sheriff's Office Cass Cnty SO Policy Manual Cass Cnty SO Policy Manual Portable Audio/Video Recorders When using a portable recorder, the assigned member shall record their 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. 419.5 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 the Dispatch Center (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. 419.5.0 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. Copyright Lexipol, LLC 2023/12/18, All Rights Reserved. Published with permission by Cass County Sheriff's Office Portable Audio/Video Recorders - 294 Cass County Sheriff's Office Cass Cnty SO Policy Manual Cass Cnty SO Policy Manual Portable Audio/Video Recorders Members shall not surreptitiously record another office member without a court order unless lawfully authorized by the Sheriff or the authorized designee. 419.5.2 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. 419.6 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. 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. 419.7 REVIEW OF RECORDED MEDIA FILES When preparing written reports, members may 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. Copyright Lexipol, LLC 2023/12/18, All Rights Reserved. Published with permission by Cass County Sheriff's Office Portable Audio/Video Recorders - 295 Cass County Sheriff's Office Cass Cnty SO Policy Manual Cass Cnty SO Policy

Manual Portable Audio/Video Recorders (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).

419.8 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. (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 Cass 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. Copyright Lexipol, LLC 2023/12/18, All Rights Reserved. Published with permission by Cass County Sheriff's Office Portable Audio/Video Recorders - 296 Cass County Sheriff's Office Cass Cnty SO Policy Manual Cass Cnty SO Policy Manual Portable Audio/Video Recorders 3. Total amount of recorded audio and video data collected by the devices and maintained by the Cass 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 Cass 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.

419.9 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 or a department designated area 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. Recordings shall not be used by any member for the purpose of

embarrassment, harassment or ridicule. 419.10 RETENTION OF RECORDINGS All 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 less than 90 days. If an individual captured in a recording submits a written request, the recording shall be retained for an additional time period. The coordinator should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

419.10.1 RELEASE OF AUDIO/VIDEO RECORDINGS Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy. 419.10.2 ACCESS TO RECORDINGS Except as provided by Minn. Stat. § 13.825, Subd. 2, audio/video recordings are considered private or nonpublic data. Copyright Lexipol, LLC 2023/12/18, All Rights Reserved. Published with permission by Cass County Sheriff's Office Portable Audio/Video Recorders - 297 Cass County Sheriff's Office Cass Cnty SO Policy Manual Cass Cnty SO Policy Manual Portable Audio/Video Recorders 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 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. 419.11 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)

APPENDIX B:

Policy 419 Cass County Sheriff's Office Cass Cnty SO Policy Manual Copyright Lexipol, LLC 2024/03/29, All Rights Reserved. Published with permission by Cass County Sheriff's Office ***DRAFT*** Portable Audio/Video Recorders - 1 Portable Audio/Video Recorders 419.1 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 Cass County Sheriff's Office facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices). 419.1.1 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. 419.2 POLICY The Cass 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. 419.3 MEMBER PRIVACY EXPECTATION While on duty, a peace officer may only use a portable recording system issued and maintained by the officer's agency in documenting the officer's activities. All recordings made by members on any office-issued device at any time or while acting in an official capacity of this officeshall remain the property of the Office. Members shall have no ownership interest in the content of these recordings.office office Office 419.4 MEMBER RESPONSIBILITIES Prior to going into service, uniformed members will be responsible for making sure that they are 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 their supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner at or above the mid-line of the waist and 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 Cass County Sheriff's Office Cass Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2024/03/29, All Rights Reserved. Published with permission by Cass County Sheriff's Office ***DRAFT*** Portable Audio/Video Recorders - 2 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 their 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. Deputies on duty with this agency but performing law enforcement activities under the command and control of another chief law enforcement officer or

federal law enforcement officer shall wear and operate their assigned body-worn camera in compliance with this policy.

419.5 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 PSAP (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. Cass County Sheriff's Office Cass Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2024/03/29, All Rights Reserved. Published with permission by Cass County Sheriff's Office

*****DRAFT*** Portable Audio/Video Recorders - 3 419.5.0 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.

419.5.2 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.

419.6 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. 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.

419.7 REVIEW OF RECORDED MEDIA FILES When preparing written reports, members may 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. Cass County Sheriff's Office Cass Cnty SO Policy Manual Portable Audio/Video Recorders

Copyright Lexipol, LLC 2024/03/29, All Rights Reserved. Published with permission by Cass County Sheriff's Office ***DRAFT*** Portable Audio/Video Recorders - 4 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). 419.8 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. Cass County Sheriff's Office Cass Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2024/03/29, All Rights Reserved. Published with permission by Cass County Sheriff's Office ***DRAFT*** Portable Audio/Video Recorders - 5 (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 Cass 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 Cass 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 Cass 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. 419.9 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. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office or a department designated area. Recordings shall not be

used by any member for the purpose of embarrassment, harassment or ridicule. 419.10 DATA CLASSIFICATION; COURT-AUTHORIZED DISCLOSURE. (a) Data collected by a portable recording system are private data on individuals or nonpublic data, subject to the following: (1) data that record, describe, or otherwise document actions and circumstances surrounding either the discharge of a firearm by a peace officer in the course of duty, if a notice is required under section 626.553, subdivision 2, or the use of force by a peace officer that results in substantial bodily harm, as defined in section 609.02, subdivision 7a, are public; (2) data are public if a subject of the data requests it be made accessible to the public, except that, if practicable, (i) data on a subject who is not a peace officer and who does not consent to the release must be redacted, and (ii) data on a peace officer whose identity is protected under section 13.82, subdivision 17, clause (a), must be redacted; Cass County Sheriff's Office Cass Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2024/03/29, All Rights Reserved. Published with permission by Cass County Sheriff's Office ***DRAFT*** Portable Audio/Video Recorders - 6 (3) subject to paragraphs (b) to (d), portable recording system data that are active criminal investigative data are governed by section 13.82, subdivision 7, and portable recording system data that are inactive criminal investigative data are governed by this section; (4) portable recording system data that are public personnel data under section 13.43, subdivision 2, clause (5), are public; and (5) data that are not public data under other provisions of this chapter retain that classification. (b) Notwithstanding section 13.82, subdivision 7, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency must allow the following individuals, upon their request, to inspect all portable recording system data, redacted no more than what is required by law, documenting the incident within five days of the request, subject to paragraphs (c) and (d): (1) the deceased individual's next of kin; (2) the legal representative of the deceased individual's next of kin; and (3) the other parent of the deceased individual's child. (c) A law enforcement agency may deny a request to inspect portable recording system data under paragraph (b) if the agency determines that there is a compelling reason that inspection would interfere with an active investigation. If the agency denies access under this paragraph, the chief law enforcement officer must provide a prompt, written denial to the individual in paragraph (b) who requested the data with a short description of the compelling reason access was denied and must provide notice that relief may be sought from the district court pursuant to section 13.82, subdivision 7. (d) When an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency shall release all portable recording system data, redacted no more than what is required by law, documenting the incident no later than 14 days after the incident, unless the chief law enforcement officer asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by section 13.82, subdivision 7. (e) A law enforcement agency may redact or withhold access to portions of data that are public under this subdivision if those portions of data are clearly offensive to common sensibilities. (f) Section 13.04, subdivision 2, does not apply to collection of data classified by this subdivision. (g) Any person may bring an action in the district court located in the county where portable recording system data are being maintained to authorize disclosure of data that are private or nonpublic under this section or to challenge a determination under paragraph (e) to redact or withhold access to portions of data because the data are clearly offensive to common sensibilities. The person bringing the action must give notice of the action to the law enforcement agency and subjects of the data, if known. The law enforcement agency must give notice to other subjects of the data, if known, who did not receive the notice from the person bringing the action. The court may order that all or part of the data be released to the public or to the person bringing the action. Cass County Sheriff's Office Cass Cnty SO Policy

Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2024/03/29, All Rights Reserved. Published with permission by Cass County Sheriff's Office ***DRAFT*** Portable Audio/Video Recorders - 7 In making this determination, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency, or to a subject of the data and, if the action is challenging a determination under paragraph (e), whether the data are clearly offensive to common sensibilities. The data in dispute must be examined by the court in camera. This paragraph does not affect the right of a defendant in a criminal proceeding to obtain access to portable recording system data under the Rules of Criminal Procedure. 419.11 RETENTION OF RECORDINGS (a) Portable recording system data that are not active or inactive criminal investigative data and are not described in paragraph (b) or (c) must be maintained for at least 90 days and destroyed according to the agency's records retention schedule approved pursuant to section 138.17. (b) Portable recording system data must be maintained for at least one year and destroyed according to the agency's records retention schedule approved pursuant to section 138.17 if: (1) the data document (i) the discharge of a firearm by a peace officer in the course of duty if a notice is required under section 626.553, subdivision 2, or (ii) the use of force by a peace officer that results in substantial bodily harm; or (2) a formal complaint is made against a peace officer related to the incident. (c) Portable recording system data that document a peace officer's use of deadly force must be maintained indefinitely. (d) If a subject of the data submits a written request to the law enforcement agency to retain the recording beyond the applicable retention period for possible evidentiary or exculpatory use related to the circumstances under which the data were collected, the law enforcement agency shall retain the recording for an additional time period requested by the subject of up to 180 days and notify the requester that the recording will then be destroyed unless a new request is made under this paragraph. (e) Notwithstanding paragraph (b), (c), or (d), a government entity may retain a recording for as long as reasonably necessary for possible evidentiary or exculpatory use related to the incident with respect to which the data were collected. (f) No portable recording system data or metadata may be altered, erased, or destroyed prior to the expiration of the applicable retention period. 419.11.1 RELEASE OF AUDIO/VIDEO RECORDINGS Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy. Cass County Sheriff's Office Cass Cnty SO Policy Manual Portable Audio/Video Recorders Copyright Lexipol, LLC 2024/03/29, All Rights Reserved. Published with permission by Cass County Sheriff's Office ***DRAFT*** Portable Audio/Video Recorders - 8 419.11.2 ACCESS TO RECORDINGS Except as provided by Minn. Stat. § 13.825, Subd. 2, audio/video recordings are considered private or nonpublic 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 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. BWC data may be shared with other Law Enforcement agencies only for legitimate purposes that are documented in writing at the time of the disclosure. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law. 419.12 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).