

INDEPENDENT AUDIT REPORT

Colonel Rodmen Smith
Minnesota Department of Natural Resources Enforcement Division
500 Lafayette Road
St. Paul, MN 55155

Dear Colonel Smith:

An independent audit of the Minnesota Department of Natural Resources, Enforcement Division (MN DNR Enforcement) Portable Recording System (body-worn cameras (BWCs)) was conducted on October 20, 2023. The objective of the audit was to verify the MN DNR Enforcement's compliance with Minnesota Statutes §§13.825 and 626.8473. A limited amount of data was examined for this mock audit.

Data elements the audit includes:

Minnesota Statute §13.825

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

Minnesota Statute §626.8473

- Public Comment
- Body-worn Camera Policy

MN DNR Enforcement employs two hundred one (201) peace officers. MN DNR Enforcement utilizes Axon body-worn cameras and Evidence.com cloud-based evidence management storage. The audit covers the period January 15, 2022, through September 30, 2023.

Audit Requirement: Data Classification

Determine if the data collected by BWCs are appropriately classified.

All BWC data collected by MN DNR Enforcement during the audit period is classified as private nonpublic data. The MN DNR Enforcement had no instances of the discharge of a firearm by a peace officer, use of force that resulted in substantial bodily harm, requests from data subjects for the data to be made accessible to the public, or court orders directing the agency to release the BWC data to the public.

No discrepancies noted.

Audit Requirement: Retention of Data

Determine if the data collected by BWCs are appropriately retained and destroyed in accordance with statutes.

MN DNR Enforcement utilizes the MN DNR Enforcement Record Retention Schedule and agency specified retention periods in Evidence.com. At the conclusion of a BWC recording, meta data, including an Evidence.com category, are assigned to the recording. Each Evidence.com category has an associated retention period. Upon reaching its retention date, evidence is systematically deleted. Deletion of the data is captured in the audit trail.

A report was produced from Evidence.com for all BWC data collected during the audit period. Randomly selected records from the Evidence Created Report were examined, and the date and time the data was created was verified against the deletion date. All records were deleted or maintained in accordance with the record retention, and all records were maintained for at least the minimum ninety (90) days required by statute.

MN DNR Enforcement had received no requests from data subjects to retain BWC data beyond the applicable retention period.

No discrepancies noted.

Audit Requirement: Access by Data Subjects

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

BWC data is available to data subjects and access may be requested by submission of a MN DNR Data Request Form. During the audit period, MN DNR Enforcement had received no requests to view BWC video but did receive requests for copies of BWC video from data subjects. Data subjects other than the requestor were redacted. A copy of the redacted video is stored in Evidence.com along with the original copy. Data Request Forms are maintained by MN DNR Enforcement and the Data Practices Coordinator as documentation of the data request.

No discrepancies noted.

Audit Requirement: Inventory of Portable Recording System Technology

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

for destruction of the data, and that the data are available to the public.

MN DNR Enforcement BWC inventory consists of two hundred eleven (211) devices. An inventory report produced from Evidence.com detailed the number of recording devices owned and maintained by the agency. The inventory included the device model, serial number, device name, the officer assigned to the device, device status, and error status.

The MN DNR Enforcement BWC policy governs the use of portable recording systems by peace officers while in the performance of their duties. The Department's BWC policy requires officers to inspect the BWC equipment at the start of each workday to ensure the camera is in working order and to immediately report any defect in condition or performance in writing to a supervisor and obtain a spare functioning BWC as soon as feasible.

Peace officers were trained on the use of the BWCs by Axon during implementation. Newly hired officers are trained as part of their training academy.

Randomly selected officers working during one-month periods and calls for service for those same one-month periods, as well as randomly selected full days of calls for service, were verified against the Evidence Created Report. The vast majority of the calls for service had corresponding BWC videos confirming that BWCs are being deployed. A minimal number of occurrences were identified where officers failed to activate their BWCs. A review of the total number of BWC videos created per month shows a consistent collection of BWC data.

Evidence.com queries and the Evidence Created Report detail the total amount of BWC data created, stored/maintained, and deleted. The MN DNR Enforcement utilizes the MN DNR Enforcement Record Retention and agency specified retention periods in Evidence.com. BWC video is fully deleted from Evidence.com upon reaching its scheduled deletion date. Meta data and audit trails are maintained in Evidence.com after deletion of BWC audio and video. BWC data is available upon request, and access may be requested by submission of a MN DNR Data Request Form.

No discrepancies noted.

Audit Requirement: Use of Agency-Issued Portable Recording Systems

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

The MN DNR Enforcement BWC policy states that officers are prohibited from using personal recording devices to record law enforcement contacts while on duty.

No discrepancies noted.

Audit Requirement: Authorization to Access Data

Determine if the agency complies with sections 13.05, Subd. 5, and 13.055 in the operation of

portable recording systems and in maintaining portable recording system data.

Supervisors conduct random monthly reviews of BWC data to ensure BWC data is properly labeled and that BWCs are being utilized in compliance with policy.

Nonpublic BWC data is only available to persons whose work assignment reasonably requires access to the data. User access is managed by the assignment of roles and permissions in Evidence.com. Permissions are based on staff work assignments. Access to Evidence.com is password protected and requires dual authentication.

The MN DNR Enforcement BWC Policy governs access to BWC data. Agency personnel are authorized to access BWC data for law enforcement purposes only. User access to data is captured in the audit trail. The BWC policy states that any violations of the BWC policy may form the basis for departmental administrative action.

When BWC data is deleted from Evidence.com, its contents cannot be determined. The MN DNR Enforcement has had no security breaches. A BCA CJIS Security Audit was conducted in October of 2022.

No discrepancies noted.

Audit Requirement: Sharing Among Agencies

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

The MN DNR Enforcement BWC policy allows for the sharing of data with prosecutors, courts, and other criminal justices entities as provided by law. Law enforcement agencies seeking access to BWC data are required to submit a written request. Sharing of data is captured in the audit trail. The Evidence.com Evidence Created Report provides documentation of all Case Partner Agency shared data.

No discrepancies noted.

Audit Requirement: Biennial Audit

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

Evidence.com and the Evidence Created Report document the date and time portable recording system data were collected and deleted. All BWC data collected during the audit period is classified as private nonpublic data. The Evidence.com notes and audit trail document how the data are used. The audit trail is maintained in Evidence.com after deletion of video. The

Evidence.com audit trail documents each and every action taken from the creation of the recording to its deletion, as well as access to the audit trail after BWC has been deleted.

No discrepancies noted.

Audit Requirement: Portable Recording System Vendor

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

An Axon CJIS Compliance White paper outlines the specific security policies and practices for Evidence.com and how they are compliant with the CJIS Security Policy. Axon has signed the CJIS Security Addendum in all states and has performed statewide CJIS-related vendor requirements in MN. Axon has incorporated the CJIS Security Addendum by reference into the Axon Master Services and Purchase Agreement. Axon maintains signed CJIS Security Addendum certification pages for Axon personnel. Authorized Axon personnel are required to complete Level 4 CJIS Security Training upon assignment and biennially thereafter.

No discrepancies noted.

Audit Requirement: Public Comment

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

The MN Department of Natural Resources, as a state law enforcement agency, had no statutory requirement to provide an opportunity for public comment. The MN DNR Enforcement did, however, posted the draft BWC policy on their website and solicited for public comment.

No discrepancies noted.

Audit Requirement: Body-worn Camera Policy

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

The MN DNR Enforcement has established and enforces a BWC policy. The policy was compared to the requirements of Minn. Stat. § 626.8473. The agency's policy includes all minimum requirements of Minn. Stat. § 626.8473, Subd. 3. The BWC policy is posted on the agency's website.

No discrepancies noted.

This report was prepared exclusively for the Minnesota Department of Natural Resources Enforcement Division by Lynn Lembcke Consulting. The findings in this report are impartial and based on information and documentation provided and examined.

Dated: May 13, 2024

Lynn Lembcke Consulting

Lynn Lembcke

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