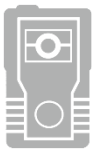
INDEPENDENT AUDITOR'S REPORT

Canby Police Department



SEPTEMBER 20TH, 2025

RAMPART AUDIT LLC

Audit Overview and Recommendations

Dear Canby City Council and Chief Walker:

We have audited the body-worn camera (BWC) program of the Canby Police Department (CPD) for the two-year period ended 6/30/2025. 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 Canby Police Department. Our responsibility is to express an opinion on the operations of this program based on our audit.

On August 1, 2025, Rampart Audit LLC (Rampart) met with Chief Josh Walker, who provided information about CPD'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 CPD's recordkeeping.

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

CPD 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.

Rampart previously audited CPD's BWC program in 2024. As part of that audit, Chief Walker provided documentation showing these requirements had been met prior to the implementation of CPD's BWC program. Specifically, Chief Walker provided the following:

1. A clipping of the notice from the *Canby News* announcing CPD's proposed BWC program, and providing an internet link to the proposed BWC policy, as well as locations where physical copies of the policy were available for review. The notice also included instructions for submitting written comments via mail or email in advance of a public hearing to be held on June 1, 2021.
2. A copy of the invoice for the notice from the *Canby News*.

[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 CPD, these terms may be used interchangeably in this report.

3. A copy of an affidavit of publication signed by the publisher of the *Canby News* and documenting that the notice appeared in the May 11, 2021, edition.
4. Minutes of the June 1, 2021, Canby City Council meeting, which document that a public hearing was opened during the meeting for the purpose of receiving comments from the public regarding the proposed BWC program. After no comments were received, the public hearing was closed and the City Council voted to approve the proposed BWC policy. The City Council then reviewed two options for camera systems presented by then-Chief Eric Diekmann before voting to proceed with the proposal from Axon.

Copies of these documents have been retained in Rampart's audit files. In our opinion, Canby Police Department met the public notice and comment requirements prior to the implementation of their BWC program on or about July 1, 2021.[2]

Minn. Stat. §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."

Chief Walker advised us that CPD does not have its own website; however, a printed copy of the current BWC policy is posted publicly outside of the Canby Police Department. In addition, copies of both the BWC policy and the retention schedule are located in a policy binder that is available for public review. While CPD does not have its own website or dedicated page on the City of Canby's website, Rampart located a working link to what appears to be the original version of CPD's BWC policy on the homepage of the city's website. While it is our opinion that CPD is not required to post its BWC policy online as it does not have its own website, or dedicated page on the City of Canby website, as addressed in §626.8473 Subd. 3(a), we recommend that CPD replace the outdated BWC policy linked to the City of Canby website with the current BWC policy.

CPD BWC WRITTEN POLICY

As part of this audit, we reviewed CPD'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;

[2] Chief Walker advised us that Canby PD's BWC program was implemented prior to his employment with the agency. From the limited records available, he determined the implementation most likely occurred on or about 7/1/2021.

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 CPD 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.

CPD BWC Data Retention

Minn. Stat. §13.825 Subd. 3(a) establishes a minimum retention period of 90 days for all BWC data not subject to a longer retention period, while §13.825 Subd. 3(b) requires that the following categories of BWC data be retained for a minimum period of one year:

1) any reportable firearms discharge;
2) any use of force by an officer that results in substantial bodily harm; and
3) any incident that results in a formal complaint against an officer.

Meanwhile, Subd. 3(c) requires that any portable recording system data documenting a peace officer's use of deadly force must be maintained indefinitely. Finally, Subd. 3(d) requires that an agency retain BWC recordings for an additional period of up to 180 days when so requested in writing by a data subject.

Canby Police Department'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 less than 90 days," which satisfies the requirements of §13.825 Subd. 3(a).

CPD's BWC retention schedule, which is included as part of the BWC policy in Appendix A, identifies a one-year retention period for reportable firearms discharges and six-year retention periods for the following BWC data classifications:

1. Evidence-force, defined as an event involving "the application of force by a Law Enforcement Officer of this or another agency."
2. Evidence-administrative, defined as an "incident [involving] an adversarial encounter or [resulting] in a complaint against the officer." However, this retention period is reduced to 365 days if no complaint is made against the officer.

In our opinion, these retention standards satisfy the requirements of §13.825 Subd. 3(b).

CPD's BWC retention schedule indicates a retention period of "indefinite/permanent" for recordings classified as "Deadly Force," which includes those instances in which "[t]he information was obtained as part of an incident involving the use of deadly force by an officer of this department or another agency." In our opinion, this satisfies the requirements of §13.825 Subd. 3(c).

CPD's BWC policy states:

> If an individual captured in a recording submits a written request, the recording shall be retained for an additional period of no less than 180 days. The [BWC] coordinator should be responsible for notifying the individual prior to destruction of the recording.

In our opinion, this satisfies the requirements of §13.825 Subd. 3(d).

As discussed in Clause 2 of the Policy section of this report, a BWC policy must prohibit altering, erasing or destroying any recording made with a peace officer's portable recording system, as well as associated data or metadata, prior to the expiration of the applicable retention period. In addition, the full, unedited, and unredacted recording of a peace officer using deadly force must be maintained indefinitely.

The Retention of Recordings section of CPD's BWC policy states: "It shall be a violation of this policy for members of the Canby Police Department to alter or destroy BWC video prior to its expiration period as outlined in the retention schedule," while the Accountability section states: "Any member who alters or

destroys BWC video prior to its expiration period outlined in the retention schedule may be subject to discipline and or criminal consequences."

While the policy prohibits the alteration or destruction of BWC video prior to the expiration of the appropriate retention period, it does not address associated data and metadata as required by §626.8473 Subd. 3(b)(1). Prior to the issuance of this report, CPD furnished an updated BWC policy that addresses this issue. A copy of the revised policy is attached to this report as Appendix B.

CPD employs Axon Body 4 (AB4) body-worn cameras and utilizes Axon's Cloud Service storage (Evidence.com) and manages BWC data retention through automated retention settings in Axon's 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. If an officer fails to assign a data classification, the default retention period is indefinite to avoid the accidental loss of data.

CPD's BWC policy states that "members should download, tag, or mark the recordings in accordance with procedure and document the existence of the recording in any related case report." Though not specified in the policy, Chief Walker advised us that each officer is responsible for transferring or assuring the proper transfer of the data from his/her BWC by the end of their shift.

Chief Walker advised us that the Axon body-worn cameras utilize a physical docking station located at the Canby Police Department.

In our opinion, CPD's revised BWC policy is compliant with respect to applicable data retention requirements.

CPD BWC Data Destruction

As discussed above, CPD utilizes Axon's Evidence.com for storage, with retention periods determined based on the classification assigned to BWC data. Axon certifies that its Cloud Service is compliant with the Federal Bureau of Investigation's Criminal Justice Information System Security Division Policy as required by Minnesota Statute §13.825 Subd. 11(b). Data destruction is achieved through automated deletion and overwriting, with storage devices sanitized (overwritten three or more times or degaussed) or physically destroyed upon being removed from service.

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

CPD BWC Data Access

The Access to Recordings section of CPD's BWC policy states: "Officers shall refer members of the media or public seeking access to BWC media to (the responsible authority/data practices designee) who shall

process the request in accordance with the MGDPA [Minnesota Government Data Practices Act] and other governing laws." The policy also states that: "An individual shall be provided with access and allowed to review BWC data about him- or herself and other data subjects in the recording," but details certain redaction requirements as well as exceptions for BWC data classified as active investigatory data.

Chief Walker advised us that all requests from the public or media are made in writing using Canby Police Department's BWC data disclosure form, which is submitted to him. BWC video is shared via Evidence.com internet link, subject to any required redaction.

CPD's BWC policy states that: "BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure." All requests from other law enforcement agencies are made in writing via the requesting officer's agency email, with BWC video shared via Evidence.com internet link. As part of the audit, Chief Walker furnished a copy of CPD's data disclosure form, which contains a written reminder of the receiving agency's obligations under §13.825 Subd. 7 and Subd. 8. The requesting officer is required to provide a signature acknowledging the agency's responsibilities before the request is processed. CPD maintains a copy of each such form it receives.

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. The Death Resulting From Force – Release of Public Data section of CPD's BWC policy addresses the requirements pertaining to a 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, as well as the media release requirements contained in the statute.

CPD's BWC policy states that: "BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law. All written requests shall be made through the requestor's government email." Chief Walker advised us, however, that any associated BWC data are shared with the prosecutor automatically as part of the case submission process.

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

CPD BWC Data Classification

CPD's BWC Policy states that "[e]xcept as provided by Minn. Stat. §13.825, Subd. 2, audio/video recordings are considered private or nonpublic data," and further states that "BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently."

As noted in the preceding section, CPD's BWC policy also addresses the changes the Minnesota State Legislature made in 2023 regarding data classification and access rights for BWC data documenting incidents involving the use of deadly force. In our opinion, CPD's BWC policy is compliant with respect to the applicable data classification requirements.

CPD BWC Internal Compliance Verification

The Review of Recorded Media Files section of CPD's BWC 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," while the Accountability section of CPD's BWC policy states:

> The CLEO [chief law enforcement officer] or designee will review BWC recordings of each recording device/officer randomly on a weekly basis. The [CLEO] or designee will randomly audit the history of the BWC files to ensure that no unauthorized downloading or viewing took place. In the event of a violation, the violator will be disciplined in accordance with department policy.

Chief Walker advised us that all access to BWC data is documented automatically, with reviews logged in the Axon Evidence software as "review/audit." He is able to monitor access, and also adds a separate note documenting his reason for accessing each recording.

As discussed in Clause 4 of the Policy section of this report, the 2023 legislative changes require that an agency's BWC policy must specify that an officer assigned a BWC must wear and operate the system in compliance with the agency's BWC policy while performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement official. The Member Responsibilities section of CPD's BWC policy addresses this requirement.

The Accountability section of CPD's written BWC policy states:

> Any member who accesses or releases recordings without authorization may be subject to discipline.
>
> Any member who alters or destroys BWC video prior to its expiration period outlined in the retention schedule may be subject to discipline and or criminal consequences…

Because unauthorized access to BWC data may constitute a misdemeanor under Minn. Stat. §13.09, we recommend that CPD revise their policy to note that the activities described in the first paragraph may also result in criminal consequences. In addition, we recommend that CPD revise their policy to include associated BWC data and metadata, along with BWC video in the second paragraph.

Prior to the completion of this report, CPD submitted a revised BWC policy that addresses these issues.

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

CPD BWC Program and Inventory

CPD currently possesses three (3) Axon Body 4 body-worn cameras.

The CPD BWC policy identifies those circumstances in which officers 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.

Chief Walker advised us that he is able to determine the number of BWCs deployed by reviewing the schedule and/or payroll data, and can also review Evidence.com entries showing when a BWC was signed out by an officer.

The Prohibited Use of Audio/Video Recorders section of CPD's BWC policy states that: "Members are prohibited from using personally owned recording devices while on duty," which satisfies the Minn. Stat. §13.825 Subd. 6 requirement that states: "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."

Chief Walker advised us that officers have CPD-issued cell phones that could be used as backup BWCs in an emergency.

As of the audit date, August 1, 2025, CPD maintained 630 BWC recordings.

CPD BWC Physical, Technological and Procedural Safeguards

CPD BWC data are initially recorded to a hard drive in each officer's BWC. Data from each BWC is then uploaded to Axon's Evidence.com Cloud Service via a physical docking station located at the Canby Police Department. In the event an officer also fails to label a video, the default retention period is permanent to avoid the accidental loss of data.

Officers have view-only access to their own data for report writing, trial preparation, data administration, investigatory purposes and other legitimate law enforcement purposes, as well as the ability to add or edit case numbers and titles. All BWC data access is logged automatically and available for audit purposes.

BWC data is only destroyed via an automated process upon the expiration of the retention period defined for the specific data classification in Evidence.com.

As noted in Clause 3 of the Policy section of this report, the 2023 legislative updates require that a BWC policy specify that the device be worn at or above the mid-line of the waist. The Member Responsibilities section of CPD's BWC policy states that:

> Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order… If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable. Uniformed members shall wear the recorder in a conspicuous manner located at or above the mid-line of the waist or otherwise notify persons that they are being recorded, whenever reasonably practicable.

We recommend removing the phrase "or otherwise notify persons that they are being recorded, whenever reasonably practicable" to avoid ambiguity about the mandatory nature of the location where the BWC is to be worn.

Prior to the issuance of this report, HPD furnished a revised BWC policy that addresses this requirement.

Enhanced Surveillance Technology

CPD currently employs BWCs with only standard audio/video recording capabilities and Chief Walker advised us that CPD has 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.

Chief Walker did advise us that CPD possesses a pair of binoculars with both thermal and recording capabilities. In our opinion, this device does not meet the definition of a "portable recording system" under Minn. Stat. §13.825 Subd. 1, which is "a device worn by a peace officer that is capable of both video and audio recording of the officer's activities and interactions with others or collecting digital multimedia evidence as part of an investigation."

If CPD 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 an officer activating his or her BWC. For example, an officer 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 CPD records.

Audit Conclusions

In our opinion, the Canby Police Department's Body-Worn Camera Program is compliant with Minnesota Statutes §13.825 and §626.8473.

Rampart Audit LLC

9/20/2025

APPENDIX A:

Portable Audio/Video Recorders:

PURPOSE AND SCOPE:

This policy provides guidelines for the use of portable audio/video recording devices by members of this department 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 Canby Police Department facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices).

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.

BWC - Body worn camera.

POLICY:
The Canby Police Department provides 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 Department by accurately capturing contacts between members of the Department and the public.

COORDINATOR:
The Chief of Police or the authorized designee should designate a coordinator responsible for (Minn. Stat. § 626.8473; Minn. Stat. § 13.825):

- Establishing procedures for the security, storage and maintenance of data and recordings.

    1. The coordinator should work with the Chief of Police 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 Chief of Police 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).

- 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 CPD members and members of other governmental entities and agencies.

- Establishing procedures for logging or auditing access.
- Establishing procedures for transferring, downloading, tagging, or marking events.
- Establishing an inventory of portable recorders including:

1. The ability to provide the total number of devices owned or maintained by the Canby Police Department.
2. The ability to determine the total amount of recorded audio and video data collected by the devices maintained by the Canby Police Department.
3. Total amount of recorded audio and video data collected by the devices and maintained by the Canby Police Department

- Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Canby Police Department that expands the type or scope of surveillance capabilities of the department's portable recorders.
- Ensuring that this portable Audio/Video Recorders Policy is posted on the Department website.

MEMBER PRIVACY EXPECTATION:
All recordings made by members on any department-issued device at any time or while acting in an official capacity of this department, regardless of ownership of the device, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

MEMBER RESPONSIBILITIES:
All officers assigned a portable recording system shall wear and operate the system in compliance with the Canby Police Department's portable audio/video recorders policy, while performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement official.

Prior to going into service, each uniformed member will be responsible for making sure that he/ she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order (Minn. Stat. § 13.825). If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall

promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner located at or above the mid-line of the waist or otherwise notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. § 626.8473).

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner located at

or above the mid-line of the waist when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a portable recorder, the assigned member shall record his/her name, employee number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned, or the member deactivated the recording (Minn. Stat. § 626.8473). Members should include the reason for deactivation.

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:

- All enforcement and investigative contacts including stops and field interview (FI) situations.
- Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- Self-initiated activity in which a member would normally notify Dispatch.
- 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 an 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.

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

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 Department 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 department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

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.

PROHIBITED USE OF AUDIO/VIDEO RECORDERS:
Members are prohibited from using department-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 department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on duty.

Recordings shall not be used by any member for the purpose of embarrassment, harassment, or ridicule.

RETENTION OF RECORDINGS:
See attached retention schedule

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.

It shall be a violation of this policy for members of the Canby Police Department to alter or destroy BWC video prior to its expiration period as outlined in the retention schedule.

If an individual captured in a recording submits a written request, the recording shall be retained for an additional time period of no less than 180 days. The coordinator should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

RELEASE OF AUDIO/VIDEO RECORDINGS:
Requests for the release of audio/video recordings shall be processed in accordance with the access to recordings section of this policy.

ACCESS TO RECORDINGS:
Except as provided by Minn. Stat. § 13.825, Subd. 2, audio/video recordings are considered private or nonpublic data.

Data Subjects. Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:

- Any person or entity whose image or voice is documented in the data.
- The officer who collected the data.
- 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 data is presumptively private. BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result:

- BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.
- Some BWC data is classified as confidential (See Below)
- Some BWC data is classified as public (See Below)

Confidential data. BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the "private" classification listed above and the "public" classifications listed below.

Public Data. The following BWC data is public:

- Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
- Data that documents the use of force by a peace officer that results in substantial bodily harm.
- Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted. In addition, any data on undercover officers must be redacted. Data that documents the final disposition of a disciplinary action against a public employee.
- However, if another provision of the Data Practices Act 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) should not be released even if it would otherwise fit into one of the public categories listed above.

Access to BWC data by non-employees. Officers shall refer members of the media or public seeking access to BWC data to (the responsible authority/data practices designee), who shall process the request in accordance with the MGDPA and other governing laws. In particular:

- An individual shall be provided with access and allowed to review recorded BWC data about him- or herself and other data subjects in the recording, but access shall not be granted:

    1. If the data was collected or created as part of an active investigation.
    (A) Data subjects. Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:
    (a) Any person or entity whose image or voice is documented in the data.
    (b) To portions of the data that the agency 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.

2. 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 on redaction.
   (a) Data on other individuals in the recording who do not consent to the release must be redacted.
   (b) Data that would identify undercover officers must be redacted.
   (c) Data on other officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted.

Access by peace officers and law enforcement employees. No employee may have access to the departments BWC data except for legitimate law enforcement or data administration purposes:

- Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Officers may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident.
- Agency personnel shall document their reasons for accessing stored BWC data in the program audit note file of the specific recording or written log at the time of each access. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency to public and social media websites.
- Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.

Other authorized disclosures of data. Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat 13.82 Sub 15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of individual identities that are not public. Ptotecting against incidental disclosure should 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 that are documented in writing at the time of the disclosure. All written requests shall be made through the requestor's government email.
- BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law. All requests must be in writing and shall be made through the requestor's government email.

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:

- The recording contains evidence relevant to potential criminal, civil or administrative matters.

- A complainant, victim or witness has requested non-disclosure.
- 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.
- Medical or mental health information is contained.
- Disclosure may compromise an undercover officer or confidential informant.

- 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.

REVIEW OF RECORDED MEDIA FILES:
When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- By a supervisor as part of internal audits and reviews as required by Minn. Stat. § 626.8473.
- Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation, or criminal investigation.
- Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- By media personnel with permission of the Chief of Police or the authorized designee.
- 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 Chief of Police of their designee 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).

DEATH RESULTING FROM FORCE – RELEASE OF PUBLIC DATA

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 recoding 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)

- The deceased individuals next of kin;
- The legal representative of the deceased individuals next of kin; and
- The other parent of the deceased individuals' child.

(A) 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.

(B) 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 remains classified by section 13.82, subdivision 7.

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 member who alters or destroys BWC video prior to its expiration period outlined in the retention schedule may be subject to discipline and or criminal consequences.

The CLEO or designee will review BWC recordings of each recording device/officer randomly on a weekly basis. The Cleo or designee will randomly audit the history of the BWC files to ensure that no unauthorized downloading or viewing took place. In the event of a violation, the violator will be disciplined in accordance with department policy.

Portable Audio/Video Recorder Retention Requirements

1. **Deadly Force:** The information was obtained as part of an incident involving the use of deadly force by an officer of this department or another agency. (**Indefinite/Permanent**)

2. **Reportable Firearms Discharge:** Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous. This shall include accidental or unintentional discharges as well (**One year)**

3. **Evidence-criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision. **(Seven years)**

4. **Homicides:** The information has evidentiary value and is involved in apparent or suspected cases involving suspicious deaths or known homicides. (**Permanent)**

5. **Evidence-force:** Whether or not enforcement action was taken, or an arrest resulted, the event involved the application of force by a Law Enforcement Officer of this or another agency. **(Six years)**

6. **Evidence-property:** Whether or not enforcement action was taken, or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property. **(One year)**

7. **Evidence-administrative:** The incident involved an adversarial encounter or resulted in a complaint against the officer. **(6 years if involved in administrative complaint against officer, 365 days if no complaint.)**

8. **Evidence-other:** The recording has potential evidentiary value for reasons determined by the officer at the time of labeling. **(180 days)**

9. **Training:** The event was such that it may have value for training. **(180 days)**

10. **Not Evidence:** The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts and unintentionally recorded footage are not evidence. **(180 days)**
11. **Signal Test:** The recording was made for the sole purpose of checking the functionality of the body camera to ensure it meets operational requirements and is ready for shift. **(90 days)**

12. **Mental Health:** The recording contains interactions with those suffering from apparent mental health crisis that does not fall into a category with longer retention period. (**Until manually deleted, 180 days minimum)**

13. **Officer Injury:** Recording contains evidence of an Officer being injured while on duty regardless of if incident could be categorized differently. **(Permanent)**

If incident falls into multiple categories, the appropriate category with the longest retention period shall be selected.

APPENDIX B:

Portable Audio/Video Recorders:

PURPOSE AND SCOPE:

This policy provides guidelines for the use of portable audio/video recording devices by members of this department 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 Canby Police Department facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices).

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.

BWC - Body worn camera.

POLICY:
The Canby Police Department provides 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 Department by accurately capturing contacts between members of the Department and the public.

COORDINATOR:
The Chief of Police or the authorized designee should designate a coordinator responsible for (Minn. Stat. § 626.8473; Minn. Stat. § 13.825):

- Establishing procedures for the security, storage and maintenance of data and recordings.

    1. The coordinator should work with the Chief of Police 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 Chief of Police 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).

- 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 CPD members and members of other governmental entities and agencies.

- Establishing procedures for logging or auditing access.
- Establishing procedures for transferring, downloading, tagging, or marking events.
- Establishing an inventory of portable recorders including:

    1. The ability to provide the total number of devices owned or maintained by the Canby Police Department.
    2. The ability to determine the total amount of recorded audio and video data collected by the devices maintained by the Canby Police Department.
    3. Total amount of recorded audio and video data collected by the devices and maintained by the Canby Police Department

- Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Canby Police Department that expands the type or scope of surveillance capabilities of the department's portable recorders.
- Ensuring that this portable Audio/Video Recorders Policy is posted on the Department website.

MEMBER PRIVACY EXPECTATION:
All recordings made by members on any department-issued device at any time or while acting in an official capacity of this department, regardless of ownership of the device, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

MEMBER RESPONSIBILITIES:
All officers assigned a portable recording system shall wear and operate the system in compliance with the Canby Police Department's portable audio/video recorders policy, while performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement official.

Prior to going into service, each uniformed member will be responsible for making sure that he/ she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order (Minn. Stat. § 13.825). If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall

promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner located at or above the mid-line of the waist. (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 located at or above the mid-line of the waist when in use.

When using a portable recorder, the assigned member shall record his/her name, employee number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned, or the member deactivated the recording (Minn. Stat. § 626.8473). Members should include the reason for deactivation.

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:

- All enforcement and investigative contacts including stops and field interview (FI) situations.
- Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- Self-initiated activity in which a member would normally notify Dispatch.
- 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 an 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.

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

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 Department 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 department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

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.

PROHIBITED USE OF AUDIO/VIDEO RECORDERS:
Members are prohibited from using department-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 department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on duty.

Recordings shall not be used by any member for the purpose of embarrassment, harassment, or ridicule.

RETENTION OF RECORDINGS:
See attached retention schedule

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.

It shall be a violation of this policy for members of the Canby Police Department to alter or destroy BWC video prior to its expiration period as outlined in the retention schedule.

If an individual captured in a recording submits a written request, the recording shall be retained for an additional time period of no less than 180 days. The coordinator should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

RELEASE OF AUDIO/VIDEO RECORDINGS:
Requests for the release of audio/video recordings shall be processed in accordance with the access to recordings section of this policy.

ACCESS TO RECORDINGS:
Except as provided by Minn. Stat. § 13.825, Subd. 2, audio/video recordings are considered private or nonpublic data.

Data Subjects. Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:

- Any person or entity whose image or voice is documented in the data.
- The officer who collected the data.
- 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 data is presumptively private. BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result:

- BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.
- Some BWC data is classified as confidential (See Below)
- Some BWC data is classified as public (See Below)

Confidential data. BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the “private” classification listed above and the “public” classifications listed below.

Public Data. The following BWC data is public:

- Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
- Data that documents the use of force by a peace officer that results in substantial bodily harm.
- Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted. In addition, any data on undercover officers must be redacted. Data that documents the final disposition of a disciplinary action against a public employee.
- However, if another provision of the Data Practices Act 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) should not be released even if it would otherwise fit into one of the public categories listed above.

Access to BWC data by non-employees. Officers shall refer members of the media or public seeking access to BWC data to (the responsible authority/data practices designee), who shall process the request in accordance with the MGDPA and other governing laws. In particular:

- An individual shall be provided with access and allowed to review recorded BWC data about him- or herself and other data subjects in the recording, but access shall not be granted:

    1. If the data was collected or created as part of an active investigation.
        (A) Data subjects. Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:
        (a) Any person or entity whose image or voice is documented in the data.
        (b) To portions of the data that the agency 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.
    2. Unless the data is part of an active investigation, an individual data subject shall be <u>provided with a copy</u> of the recording upon request, but subject to the following guidelines on redaction.
        (a) Data on other individuals in the recording who do not consent to the release must be redacted.
        (b) Data that would identify undercover officers must be redacted.
        (c) Data on other officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted.

Access by peace officers and law enforcement employees. No employee may have access to the departments BWC data except for legitimate law enforcement or data administration purposes:

- Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Officers may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident.
- Agency personnel shall document their reasons for accessing stored BWC data in the program audit note file of the specific recording or written log at the time of each access. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency to public and social media websites.
- Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.

Other authorized disclosures of data. Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat 13.82 Sub 15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of individual identities that are not public. Ptotecting against incidental disclosure should 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 that are documented in writing at the time of the disclosure. All written requests shall be made through the requestor's government email.
- BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law. All requests must be in writing and shall be made through the requestor's government email.

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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:

- The recording contains evidence relevant to potential criminal, civil or administrative matters.
- A complainant, victim or witness has requested non-disclosure.
- 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.
- Medical or mental health information is contained.
- Disclosure may compromise an undercover officer or confidential informant.

- 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.

REVIEW OF RECORDED MEDIA FILES:
When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- By a supervisor as part of internal audits and reviews as required by Minn. Stat. § 626.8473.
- Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation, or criminal investigation.
- Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- By media personnel with permission of the Chief of Police or the authorized designee.
- 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 Chief of Police of their designee 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).

DEATH RESULTING FROM FORCE – RELEASE OF PUBLIC DATA

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 recoding 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)

- The deceased individuals next of kin;
- The legal representative of the deceased individuals next of kin; and
- The other parent of the deceased individuals' child.

(A) 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.

(B) 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 remains classified by section 13.82, subdivision 7.

ACCOUNTABILITY:

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

Any member who alters or destroys BWC video or associated data and metadata prior to its expiration period outlined in the retention schedule may be subject to discipline and or criminal consequences.

The CLEO or designee will review BWC recordings of each recording device/officer randomly on a weekly basis. The Cleo or designee will randomly audit the history of the BWC files to ensure that no unauthorized downloading or viewing took place. In the event of a violation, the violator will be disciplined in accordance with department policy.

Portable Audio/Video Recorder Retention Requirements

1. **Deadly Force:** The information was obtained as part of an incident involving the use of deadly force by an officer of this department or another agency. (**Indefinite/Permanent**)

2. **Reportable Firearms Discharge:** Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous. This shall include accidental or unintentional discharges as well (**One year)**

3. **Evidence-criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision. **(Seven years)**

4. **Homicides:** The information has evidentiary value and is involved in apparent or suspected cases involving suspicious deaths or known homicides. (**Permanent)**

5. **Evidence-force:** Whether or not enforcement action was taken, or an arrest resulted, the event involved the application of force by a Law Enforcement Officer of this or another agency. **(Six years)**

6. **Evidence-property:** Whether or not enforcement action was taken, or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property. **(One year)**

7. **Evidence-administrative:** The incident involved an adversarial encounter or resulted in a complaint against the officer. **(6 years if involved in administrative complaint against officer, 365 days if no complaint.)**

8. **Evidence-other:** The recording has potential evidentiary value for reasons determined by the officer at the time of labeling. **(180 days)**

9. **Training:** The event was such that it may have value for training. **(180 days)**

10. **Not Evidence:** The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts and unintentionally recorded footage are not evidence. **(180 days)**
11. **Signal Test:** The recording was made for the sole purpose of checking the functionality of the body camera to ensure it meets operational requirements and is ready for shift. **(90 days)**

12. **Mental Health:** The recording contains interactions with those suffering from apparent mental health crisis that does not fall into a category with longer retention period. (**Until manually deleted, 180 days minimum)**

13. **Officer Injury:** Recording contains evidence of an Officer being injured while on duty regardless of if incident could be categorized differently. **(Permanent)**

If incident falls into multiple categories, the appropriate category with the longest retention period shall be selected.