



# INDEPENDENT AUDITOR'S REPORT

---

Nashwauk Police Department



NOVEMBER 21ST, 2025  
RAMPART AUDIT LLC

## **Audit Overview and Recommendations**

Dear Nashwauk City Council and Chief Longoria:

We have audited the body-worn camera (BWC) program of the Nashwauk Police Department (NPD) for the two-year period ended 3/15/2025. Minnesota Statute §13.825 mandates that any law enforcement agency operating a portable recording system (PRS)<sup>1</sup> program obtain an independent, biennial audit of its program. This program and its associated data are the responsibility of the Nashwauk Police Department. Our responsibility is to express an opinion on the operations of this program based on our audit.

On June 11, 2025, Rampart Audit LLC (Rampart) met with Chief Lee Longoria, who provided information about NPD'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 NPD's recordkeeping.

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

### **NPD 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 NPD's BWC program in 2023. As part of that audit, NPD personnel provided documentation showing that the public notification, comment and meeting requirements had been satisfied prior to the implementation of NPD's BWC program in August of 2020. Specifically, NPD personnel furnished the following:

1. A press release announcing that a public hearing would be held on March 13, 2018, during the regularly scheduled Nashwauk City Council meeting for the purpose of providing information about NPD's proposed BWC program, and to gather feedback from the public;

---

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

2. A copy of the minutes of the March 13, 2018, Nashwauk City Council meeting, which documented that a public hearing was opened during the City Council meeting to solicit public input. After the public hearing was closed, the City Council voted unanimously to approve the proposed BWC program.

Copies of these documents have been retained in Rampart's audit files. In our opinion, Nashwauk Police Department met the public notice and comment requirements prior to the implementation of their BWC program.

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 Longoria furnished Rampart a copy of NPD's written policy, as well as a link to this policy, which was posted on the Police Department page of City of Nashwauk's website. The Rampart auditor verified that this link worked at the time of the audit. In our opinion, Nashwauk Police Department is compliant with the requirements of §626.8473 Subd. 3(a).

#### **NPD BWC WRITTEN POLICY**

As part of this audit, we reviewed NPD'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 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 NPD 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.

### **NPD 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.

Clause A of the Data Retention section of NPD's BWC policy states that "[a]ll BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data." In our opinion, this satisfies the requirements of §13.825 Subd. 3(a).

Clause B of the Data Retention section of NPD's BWC policy specifies that BWC data documenting a reportable firearms discharge "be maintained for a minimum period of one year," while Clause C specifies a minimum retention period of six years for data documenting the use of "force of a sufficient type or degree to require a use of force report or supervisory review," as well as data documenting "circumstances that have given rise to a formal complaint against an officer." In our opinion, this meets or exceeds the requirements of §13.825 Subd. 3(b).

Clause I of the Data Retention section of NPD's BWC policy specifies that BWC data documenting "a peace officer's use of deadly force must be maintained indefinitely," as required by §13.825 Subd. 3(c).

Clause F of the Data Retention section of NPD's BWC policy states that "[u]pon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days," as required by §13.825 Subd. 3(d).

NPD employs Axon 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 (label) assigned at the time of upload; however, this retention period can be adjusted as needed.

The Downloading and Labeling Data section of NPD's BWC policy states that "[e]ach officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to *Axon Cloud* by the end of that officer's shift." The policy also states that "[o]fficers shall label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling."

Chief Longoria advised us that he is uncertain whether unclassified recordings default to the 90-day minimum retention period specified in the BWC policy, or if they are retained for a longer period to guard against the accidental loss of data.

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.

Clause J of the Data Retention section of NPD's BWC policy states: "Officers are prohibited from alteration, erasure or destruction of BWC data prior to the expiration of the applicable retention period." We noted that this language does not specifically address metadata, which is commonly defined as "data about data," and which would include details such as tags and labels.

Prior to the issuance of this report, NPD furnished an updated BWC policy that addresses this issue. A copy of the updated policy is attached to this report as Appendix B. While we noted that the revised policy introduces the following language in the Data Security Safeguards section: "Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief

or the chief's designee," it is our opinion that this complements rather than contradicts the language added to the Data Retention section of the policy, which states: "Officers are prohibited from alteration, erasure, or destruction of BWC recording(s) as well as data, or metadata prior to the expiration of the applicable retention period."

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

### **NPD BWC Data Destruction**

As discussed above, NPD 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 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, NPD's BWC policy is compliant with respect to the applicable data destruction requirements.

### **NPD BWC Data Access**

Requests for access to BWC data by data subjects or the media are made in writing using NPD's data request form to Chief Longoria, who is then responsible for reviewing and fulfilling each request in accordance with the provisions of the Minnesota Governmental Data Practices Act and other governing laws.

NPD BWC data are shared with other law enforcement agencies for evidentiary purposes only. Chief Longoria advised us that he has yet to receive a BWC data request from another agency; however, all such requests would be made in writing via email to Chief Longoria. Existing verbal agreements between NPD and other area law enforcement agencies address data classification, destruction and security requirements, as specified in §13.825 Subd. 8(b). Access to NPD BWC data for outside agencies and prosecutors is provided via email with an expiring link through Evidence.com. Requests from members of the public are fulfilled through the use of physical media, specifically USB memory sticks.

We recommend that NPD obtain a written acknowledgement of the receiving agency's responsibilities under §13.825 Subd. 8(b), or provide a written reminder as part of each request.

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. At the time of our

audit, NPD had not addressed these requirements. Prior to the issuance of this report, NPD furnished an updated BWC policy that includes language to satisfy the requirements.

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

#### **NPD BWC Data Classification**

Consistent with §13.825 Subd. 2, the Administering Access to BWC Data section of NPD's BWC policy classifies BWC data as presumptively private while also identifying those circumstances in which BWC data are classified as public or confidential. The policy further addresses circumstances in which another provision of the Minnesota Data Practices Act identifies data as private or not otherwise public, and notes that the data then retain that non-public classification.

As discussed in the preceding section of this report, in 2023 the Minnesota State Legislature modified the classification and access rights pertaining to BWC data that document an officer's use of deadly force. The revised BWC policy NPD furnished also addresses the updated data classification requirements.

In our opinion, NPD's revised BWC policy is compliant with respect to the applicable data classification requirements.

#### **NPD BWC Internal Compliance Verification**

NPD's BWC policy states that "[a]t least once a month, supervisors will randomly review BWC usage by each officer to ensure compliance with this policy." Chief Longoria confirmed that he conducts BWC video reviews on a monthly basis.

NPD's BWC policy also states that: "[t]he unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. §13.09."

In our opinion, NPD's BWC policy meets the compliance and disciplinary requirements specified in §626.8473 Subd. 3(b)(12).

As discussed in Clause 4 of the Policy section of this report, a BWC policy must require that officers assigned a BWC wear and operate it in compliance with their agency's policy when acting under the command and control of another CLEO or federal law enforcement official. At the time of our audit, NPD had not addressed this requirement.

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

#### **NPD BWC Program and Inventory**

NPD currently possesses three (3) Axon Body 3 BWCs.

The NPD 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.

While NPD does not maintain a separate log of BWC deployment or use, Chief Longoria advised us that deployment can be determined based on a review of NPD payroll records. Actual BWC use would be determined based on the creation of BWC data.

The Use and Documentation section of NPD's BWC policy states in part: "Officers may only use department-issued portable BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department."

Part F, Access by peace officers and law enforcement employees, of the Administering Access to BWC Data section of NPD's BWC policy states in part: "No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes." The policy further notes that officers may access BWC data only when there is a business need for doing so, and provides a list of authorized access purposes.

In our opinion, these sections of the policy are compliant with Minnesota Statute §13.825 Subds. 6 and 7.

As of 6/11/2025, NPD maintained 5011 BWC videos, totaling 2,218.76 GB of BWC data.

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

NPD BWC data are initially recorded to an internal hard drive in each officer's BWC. Those files are then transferred to Axon's Cloud Service via a physical docking station.

Officers have view-only access to their own data for report writing, trial preparation, data administration, investigatory purposes and other legitimate law enforcement purposes through the Evidence.com video management software. All such access is logged and can be reviewed by NPD administrators.

As noted above, requests by other law enforcement agencies for NPD BWC data must be reviewed by Chief Longoria and are fulfilled via an expiring email link. A similar method is employed to submit NPD BWC data to the Itasca County Attorney's Office and the Nashwauk City Attorney's Office.

As discussed in Clause 3 of the Policy section of this report, the 2023 legislative changes require that an agency's BWC policy must specify that a BWC be worn at or above the mid-line of the waist. At the time of our audit, NPD's BWC policy does not address this requirement.

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



### **Enhanced Surveillance Technology**

NPD 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 NPD 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 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 pre-audit covers a period of one year, 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 auditors reviewed the retained BWC videos to verify that this data was accurately documented in NPD records.

### **Audit Conclusions**

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

A handwritten signature in black ink, appearing to read "Rampart Audit, LLC", is written over a horizontal line.

Rampart Audit, LLC

11/21/2025

# **APPENDIX A:**

## **Policy 4-02**

### **independent auditor's report Policy**

City of NASHWAUK, Minnesota

### **Use of Body-Worn Cameras Policy**

#### **Purpose**

The primary purpose of using body-worn-cameras (BWCs) is to capture evidence arising from police-citizen encounters. This policy sets forth guidelines governing the use of BWCs and administering the data that results. Compliance with these guidelines is mandatory, but it is recognized that officers must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain, and rapidly evolving.

#### **Policy**

It is the policy of this department to authorize and require the use of department-issued BWCs as set forth below, and to administer BWC data as provided by law.

#### **Scope**

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of squad-based (dash-cam) recording systems. The chief or chief's designee may supersede this policy by providing specific instructions for BWC use to individual officers, or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. The chief or designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

## Definitions

The following phrases have special meanings as used in this policy:

- A. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- B. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.
- C. **Law enforcement-related information** means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- D. **Evidentiary value** means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.
- E. **General citizen contact** means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.
- F. **Adversarial** means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.
- G. **Unintentionally recorded footage** is a video recording that results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.

- H. **Official duties**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

## Use and Documentation

- A. Officers may use only department-issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.
- B. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall conduct a function test of their issued BWCs at the beginning of each shift to make sure the devices are operating properly. Officers noting a malfunction during testing or at any other time shall promptly report the malfunction to the officer's supervisor and shall document the report in writing. Supervisors shall take prompt action to address malfunctions and document the steps taken in writing.
- C. Officers should wear their issued BWCs at the location on their body and in the manner specified in training.
- D. Officers must document BWC use and non-use as follows:
  - 1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report or *[CAD record/other documentation of the event]*.
  - 2. Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report or *[CAD record/other documentation of the event]*. Supervisors shall review these reports and initiate any corrective action deemed necessary.
- E. The department will maintain the following records and documents relating to BWC use, which are classified as public data:
  - 1. The total number of BWCs owned or maintained by the agency;

2. A daily record of the total number of BWCs actually deployed and used by officers and, if applicable, the precincts in which they were used;
3. The total amount of recorded BWC data collected and maintained; and
4. This policy, together with the Records Retention Schedule.

## General Guidelines for Recording

- A. Officers shall activate their BWCs when responding to all calls for service and during all law enforcement-related encounters and activities, including but not limited to pursuits, *Terry* stops of motorists or pedestrians, arrests, searches, suspect interviews and interrogations, and during any police/citizen contacts that becomes adversarial. However, officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines, part (D)(2) (above)
- B. Officers have discretion to record or not record general citizen contacts.
- C. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded.
- D. Once activated, the BWC should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The officer having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. If the recording is discontinued while an investigation, response, or incident is ongoing, officers shall state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
- E. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.
- F. Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.

- G. Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as to make audio recordings during meal breaks or other private conversations, unless recording is authorized as part of an administrative or criminal investigation.
- H. An Officer issued a BWC must wear and operate it in compliance with this policy while performing law enforcement activities under the command and control of another law enforcement officer or federal law enforcement official

## Special Guidelines for Recording

Officers may, in the exercise of sound discretion, determine:

- A. To use their BWCs to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- B. To use their BWCs to take recorded statements from persons believed to be victims of and witnesses to crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

In addition,

- C. Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, BWCs shall be activated as necessary to document any use of force and the basis for it, and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental health issue.
- D. Officers *should* use their *BWCs and squad-based audio/video systems* to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident.

## Downloading and Labeling Data

- A. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to *Axon Cloud* by the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume responsibility for transferring the data from it.
- B. Officers shall label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. *[Include any technology-specific instructions for this process; if metadata is not being stored, then the information could be documented in a video log or other record.]* Officers should assign as many of the following labels as are applicable to each file:
  1. **Evidence—criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.
  2. **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.
  3. **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.
  4. **Evidence—administrative:** The incident involved an adversarial encounter or resulted in a complaint against the officer.

5. **Evidence—other:** The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.
  6. **Training:** The event was such that it may have value for training.
  7. **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.
- C. In addition, officers shall flag each file as appropriate to indicate that it contains information about data subjects who may have rights under the MGDPA limiting disclosure of information about them. These individuals include:
1. Victims and alleged victims of criminal sexual conduct and sex trafficking.
  2. Victims of child abuse or neglect.
  3. Vulnerable adults who are victims of maltreatment.
  4. Undercover officers.
  5. Informants.
  6. When the video is clearly offensive to common sensitivities.
  7. Victims of and witnesses to crimes, if the victim or witness has requested not to be identified publicly.
  8. Individuals who called 911, and services subscribers whose lines were used to place a call to the 911 system.
  9. Mandated reporters.



10. Juvenile witnesses, if the nature of the event or activity justifies protecting the identity of the witness.
  11. Juveniles who are or may be delinquent or engaged in criminal acts.
  12. Individuals who make complaints about violations with respect to the use of real property.
  13. Officers and employees who are the subject of a complaint related to the events captured on video.
  14. Other individuals whose identities the officer believes may be legally protected from public disclosure.
- D. Labeling and flagging designations may be corrected or amended based on additional information.

### **Administering Access to BWC Data:**

- A. **Data subjects.** Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:
1. Any person or entity whose image or voice is documented in the data.
  2. The officer who collected the data.
  3. 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.
- B. **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:

1. BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.
  2. Some BWC data is classified as confidential (see C. below).
  3. Some BWC data is classified as public (see D. below).
- C. **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.
- D. **Public data.** The following BWC data is public:
1. 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.
  2. Data that documents the use of force by a peace officer that results in substantial bodily harm.
  3. 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 *[if practicable]*. In addition, any data on undercover officers must be redacted.
  4. 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.

- E. **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:
1. An individual shall be allowed to review recorded BWC data about him- or herself and other data subjects in the recording, but access shall not be granted:
    - a. If the data was collected or created as part of an active investigation.

- 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.
- F. **Access by peace officers and law enforcement employees.** No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes:
  - 1. 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.
  - 2. 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.
- G. **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, subd. 15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of individuals whose identities are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video. In addition,
  - 1. 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.
  - 2. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

## Data Security Safeguards

- A. *Back up of the data will be on Taser Axon's cloud based system.*
- B. Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy.
- C. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.
- D. As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program.

## Agency Use of Data

- A. At least once a month, supervisors will randomly review BWC usage by each officer to ensure compliance with this policy
- B. In addition, supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.
- C. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- D. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. *Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.*

## Data Retention

- A. All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.
- B. 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, must be maintained for a minimum period of one year.
- C. Certain kinds of BWC data must be retained for six years:
  - 1. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review.
  - 2. Data documenting circumstances that have given rise to a formal complaint against an officer.
- D. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.
- E. Subject to Part F (below), all other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
- F. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- G. The department shall maintain an inventory of BWC recordings having evidentiary value.
- H. The department will post this policy, together with its Records Retention Schedule, on its website.
- I. Portable recording system data that document a peace officer's use of deadly force must be maintained indefinitely.
- J. Officers are prohibited from alteration, erasure or destruction of BWC data prior to the expiration of the applicable retention period.

## **Compliance**

Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. § 13.09.

# **APPENDIX B:**

## **Policy 4-02**

### **independent auditor's report Policy**

City of NASHWAUK, Minnesota

### **Use of Body-Worn Cameras Policy**

#### **Purpose**

The primary purpose of using body-worn-cameras (BWCs) is to capture evidence arising from police-citizen encounters. This policy sets forth guidelines governing the use of BWCs and administering the data that results. Compliance with these guidelines is mandatory, but it is recognized that officers must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain, and rapidly evolving.

#### **Policy**

It is the policy of this department to authorize and require the use of department-issued BWCs as set forth below, and to administer BWC data as provided by law.

#### **Scope**

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of squad-based (dash-cam) recording systems. The chief or chief's designee may supersede this policy by providing specific instructions for BWC use to individual officers, or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. The chief or designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

## Definitions

The following phrases have special meanings as used in this policy:

- I. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- J. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.
- K. **Law enforcement-related information** means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- L. **Evidentiary value** means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.
- M. **General citizen contact** means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.
- N. **Adversarial** means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.
- O. **Unintentionally recorded footage** is a video recording that results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.



- P. **Official duties**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

## Use and Documentation

- F. Officers may use only department-issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.
- G. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall conduct a function test of their issued BWCs at the beginning of each shift to make sure the devices are operating properly. Officers noting a malfunction during testing or at any other time shall promptly report the malfunction to the officer's supervisor and shall document the report in writing. Supervisors shall take prompt action to address malfunctions and document the steps taken in writing.
- H. ~~Minn. Stat. 626.8473 Subd. 3(b)(3) Officers should wear their issued BWCs at the location on their body and in the manner~~ 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 and as specified in training.
- I. Officers must document BWC use and non-use as follows:
3. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report or *[CAD record/other documentation of the event]*.
  4. Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report or *[CAD record/other documentation of the event]*. Supervisors shall review these reports and initiate any corrective action deemed necessary.
- J. The department will maintain the following records and documents relating to BWC use, which are classified as public data:
1. The total number of BWCs owned or maintained by the agency;

2. A daily record of the total number of BWCs actually deployed and used by officers and, if applicable, the precincts in which they were used;
  3. The total amount of recorded BWC data collected and maintained; and
  4. This policy, together with the Records Retention Schedule.
- K. Minn. Stat. 626.8473 Subd. 3(b)(3) Officers assigned a portable recording system wear and operate the system in compliance with the agency's policy while performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement official.

## General Guidelines for Recording

- I. Officers shall activate their BWCs when responding to all calls for service and during all law enforcement-related encounters and activities, including but not limited to pursuits, *Terry* stops of motorists or pedestrians, arrests, searches, suspect interviews and interrogations, and during any police/citizen contacts that becomes adversarial. However, officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines, part (D)(2) (above)
- J. Officers have discretion to record or not record general citizen contacts.
- K. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded.
- L. Once activated, the BWC should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The officer having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. If the recording is discontinued while an investigation, response, or incident is ongoing, officers shall state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
- M. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.

- N. Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.
- O. Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as to make audio recordings during meal breaks or other private conversations, unless recording is authorized as part of an administrative or criminal investigation.
- P. An Officer issued a BWC must wear and operate it in compliance with this policy while performing law enforcement activities under the command and control of another law enforcement officer or federal law enforcement official

## Special Guidelines for Recording

Officers may, in the exercise of sound discretion, determine:

- E. To use their BWCs to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- F. To use their BWCs to take recorded statements from persons believed to be victims of and witnesses to crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

In addition,

- G. Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, BWCs shall be activated as necessary to document any use of force and the basis for it, and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental health issue.

- H. Officers *should* use their *BWCs and squad-based audio/video systems* to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident.

## Downloading and Labeling Data

- E. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to *Axon Cloud* by the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume responsibility for transferring the data from it.
- F. Officers shall label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. *[Include any technology-specific instructions for this process; if metadata is not being stored, then the information could be documented in a video log or other record.]* Officers should assign as many of the following labels as are applicable to each file:
  - 8. **Evidence—criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.
  - 9. **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.
  - 10. **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.

11. **Evidence—administrative:** The incident involved an adversarial encounter or resulted in a complaint against the officer.
  12. **Evidence—other:** The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.
  13. **Training:** The event was such that it may have value for training.
  14. **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.
- G. In addition, officers shall flag each file as appropriate to indicate that it contains information about data subjects who may have rights under the MGDPA limiting disclosure of information about them. These individuals include:
15. Victims and alleged victims of criminal sexual conduct and sex trafficking.
  16. Victims of child abuse or neglect.
  17. Vulnerable adults who are victims of maltreatment.
  18. Undercover officers.
  19. Informants.
  20. When the video is clearly offensive to common sensitivities.
  21. Victims of and witnesses to crimes, if the victim or witness has requested not to be identified publicly.

22. Individuals who called 911, and services subscribers whose lines were used to place a call to the 911 system.
  23. Mandated reporters.
  24. Juvenile witnesses, if the nature of the event or activity justifies protecting the identity of the witness.
  25. Juveniles who are or may be delinquent or engaged in criminal acts.
  26. Individuals who make complaints about violations with respect to the use of real property.
  27. Officers and employees who are the subject of a complaint related to the events captured on video.
  28. Other individuals whose identities the officer believes may be legally protected from public disclosure.
- H. Labeling and flagging designations may be corrected or amended based on additional information.

## **Administering Access to BWC Data:**

- H. **Data subjects.** Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:
4. Any person or entity whose image or voice is documented in the data.
  5. The officer who collected the data.

6. 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.
- I. **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:
4. BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.
  5. Some BWC data is classified as confidential (see C. below).
  6. Some BWC data is classified as public (see D. below).
- J. **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.
- K. **Public data.** The following BWC data is public:
5. 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.
  6. Data that documents the use of force by a peace officer that results in substantial bodily harm.
  7. 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 [*if practicable*]. In addition, any data on undercover officers must be redacted.
  8. 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.

- L. **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:
  - 3. An individual shall be allowed to review recorded BWC data about him- or herself and other data subjects in the recording, but access shall not be granted:
    - a. If the data was collected or created as part of an active investigation.
    - 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.
  - 4. 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.
- M. **Access by peace officers and law enforcement employees.** No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes:
  - 2. 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.
  - 3. 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.
- N. **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, subd. 15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of individuals whose identities are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the



video, showing only screen shots, muting the audio, or playing the audio but not displaying video. In addition,

1. 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.
2. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

O. Minn. Stat. 13.825 Subd. (2)(b - g):

(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. 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.

## Data Security Safeguards

- B. *Back up of the data will be on Taser Axon's cloud based system.*
- E. Access to BWC data from city or personally owned and approved devices shall be managed in accordance with established city policy.
- F. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.
- G. As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program.

## Agency Use of Data

- E. At least once a month, supervisors will randomly review BWC usage by each officer to ensure compliance with this policy
- F. In addition, supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.

- G. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- H. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

## Data Retention

- K. All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.
- L. 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, must be maintained for a minimum period of one year.
- M. Certain kinds of BWC data must be retained for six years:
  - ~~3. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review.~~
  - 4. Data documenting circumstances that have given rise to a formal complaint against an officer.
- N. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.
- O. Subject to Part F (below), all other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
- P. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.

- Q. The department shall maintain an inventory of BWC recordings having evidentiary value.
- R. The department will post this policy, together with its Records Retention Schedule, on its website.
- S. Portable recording system data that document a peace officer's use of deadly force must be maintained indefinitely.
- T. Minn. Stat. 626.8473 Subd. 3(b)(1) Officers are prohibited from alteration, erasure or destruction of ~~BWC data~~ BWC recording(s) as well as data, or metadata prior to the expiration of the applicable retention period.

## Compliance

Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. § 13.09.