



# INDEPENDENT AUDITOR'S REPORT

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Fosston Police Department



JUNE 29TH, 2026  
RAMPART AUDIT LLC

## **Audit Overview and Recommendations**

Dear Fosston City Council and Chief Juve:

We have audited the body-worn camera (BWC) program of the Fosston Police Department (FPD) for the two-year period ended 04/20/2026. 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 FPD. Our responsibility is to express an opinion on the operations of this program based on our audit.

On May 27, 2026, Rampart Audit, LLC (Rampart) met with Sgt. Mary Olson, who provided information about FPD'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 FPD's recordkeeping.

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

### **FPD 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 Fosston Police Department's BWC program in 2024. As part of that audit, FPD personnel furnished documentation showing that public comments were solicited prior to the implementation of the BWC program on or about April 21, 2022, but were unable to verify whether a public hearing had been held. In order to ensure the requirements were met, Fosston PD posted a new solicitation for public comments and held a public hearing during the regularly scheduled Fosston City

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<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 BPD, these terms may be used interchangeably in this report.

Council meeting on September 16, 2024. FPD personnel provided documentation of this after-the-fact solicitation and hearing, copies of which have been retained in Rampart's audit files.

In our opinion, Fosston Police Department took appropriate steps to satisfy the requirements of §626.8473 Subd. 2 once the oversight was identified.

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."

Sgt. Olson furnished an electronic copy of FPD's BWC policy as part of this audit. Rampart verified that the FPD page of the City of Fosston website contained a working link to this policy. In our opinion, the Fosston Police Department is compliant with the requirements of §626.8473 Subd. 3(a).

### **FPD BWC WRITTEN POLICY**

As part of this audit, we reviewed FPD's BWC policy, a copy of which is attached to this report as Appendix A.

Minnesota Statute §626.8473 Subd. 3(b) requires a written BWC policy to incorporate the following, at a minimum:

- 1) The requirements of section 13.825 and other data classifications, access procedures, retention policies, and data safeguards that, at a minimum, meet the requirements of chapter 13 and other applicable law;
- 2) A prohibition on altering, erasing or destroying any recording made with a peace officer's portable recording system or data and metadata related to the recording prior the expiration of the applicable retention period under section 13.825 Subdivision 3, except that the full, unedited, and unredacted recording of a peace officer using deadly force must be maintained indefinitely;
- 3) A mandate that a portable recording system be worn at or above the mid-line of the waist in a position that maximizes the recording system's capacity to record video footage of the officer's activities;
- 4) A mandate that officers assigned a portable recording system wear and operate the system in compliance with the agency's policy adopted under this section while performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement official;
- 5) A mandate that, notwithstanding any law to the contrary, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency must allow the deceased individual's next of kin, the legal representative of the deceased individual's next of kin, and the other parent of the deceased individual's child, upon their request, to inspect all portable recording system data, redacted no more than what is required by law, documenting the incident within five days of the request, with the following exception:
  - a) A law enforcement agency may deny a request if the agency determines that there is a compelling reason that inspection would interfere with an active investigation. If the agency denies access, the chief law enforcement officer must provide a prompt, written denial to the individual who requested the data with a short description of the compelling reason access was

denied and must provide notice that relief may be sought from the district court pursuant to section 13.82 subdivision 7;

- 6) A mandate that, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency shall release all portable recording system data, redacted no more than required by law, documenting the incident no later than 14 days after the incident, unless the chief law enforcement officer asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by section 13.82 subdivision 7;
- 7) Procedures for testing the portable recording system to ensure adequate functioning;
- 8) Procedures to address a system malfunction or failure, including requirements for documentation by the officer using the system at the time of a malfunction or failure;
- 9) Circumstances where recording is mandatory, prohibited, or at the discretion of the officer using the system;
- 10) Circumstances under which a data subject must be given notice of a recording;
- 11) Circumstances under which a recording may be ended while an investigation, response, or incident is ongoing;
- 12) Procedures for the secure storage of portable recording system data and the creation of backup copies of the data; and
- 13) Procedures to ensure compliance and address violations of the policy, which must include, at a minimum, supervisory or internal audits and reviews, and the employee discipline standards for unauthorized access to data contained in section 13.09.

In our opinion, the FPD 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.

### **FPD 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.

The Retention of Recordings section of the FPD BWC addresses each of the data categories enumerated above, and specifies the same retention period for each as identified in statute.

In our opinion, these portions of FPD's BWC policy satisfy the retention requirements contained in Minn. Stat. §13.825 Subd. 3(a) – (d).

The Retention of Recordings section of FPD's BWC policy also states that "[m]embers shall not alter, erase, or destroy any recordings before the end of the applicable records retention period." As discussed in Clause 2 of the Policy section of this report, Minn. Stat. §626.8473 Subd. 3(b)(1) requires that this prohibition also extend to "data or metadata related to the recording." Prior to the completion of this report, Fosston PD submitted a revised BWC policy that addresses this requirement. A copy of that revised policy is attached to this report as Appendix B.

In our opinion, this revised policy satisfies the requirements described in Clause 2 of the Policy section of this report.

FPD employs Motorola V300 body-worn cameras and utilizes Motorola's CommandCentral cloud-based storage service. FPD uses the CommandCentral digital evidence management software to manage BWC data retention through automated retention settings. Sgt. Olson advised us that all BWC recordings are assigned a 90-day retention period by the system upon upload, and the officer is responsible for manually setting a longer retention period when required. Sgt. Olson also advised us that only Chief Juve has administrator rights to shorten retention or delete a recording when it's no longer needed.

The Identification and Preservation of Recordings section of FPD's BWC policy states: "...members should download, tag or mark the recordings in accordance with procedure and document the existence of the recording in any related case report." Sgt. Olson advised us that officers are verbally encouraged to download videos in a timely manner, but noted that the policy does not contain strict guidelines as to how frequently this should be done.

Sgt. Olson advised us that the Motorola body-worn cameras utilize a physical docking station located at the FPD station.

In our opinion, FPD's revised BWC policy meets the retention requirements contained in Minn. Stat. §13.825 Subd. 3.

### **FPD BWC Data Destruction**

As discussed above, Fosston Police Department utilizes Motorola's cloud-based CommandCentral, with data retention and deletion schedules managed automatically through the platform's video management software.

Motorola describes its CommandCentral cloud service as CJIS compliant and notes that the service is routinely and automatically updated to maintain compliance.

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

### **FPD BWC Data Access**

The Access to Recordings section of FPD's BWC policy states:

Any person captured in a recording may have access to the recording. If the individual requests a copy of the recording and does not have the consent of other non-law enforcement individuals captured on the recording, the identity of those individuals must be blurred or obscured sufficiently to render the subjects unidentifiable prior to release...

Though not addressed directly in the policy, we noted that BWC data pertaining to active investigations may be classified as confidential, thereby precluding access by the data subject.

Sgt. Olson advised us that that all requests for BWC data from the public or media are made in writing on a City of Fosston data request form, which is available at the City office. This form is normally submitted in person, but can be submitted via mail, email or fax as needed, provided the requestor's identity can be confirmed. City administrative staff receive the requests and forward them to Chief Juve or Sgt. Olson for review and processing. BWC video is provided to members of the public on physical media such as DVD or USB storage device, or via an emailed internet link.

FPD's BWC policy does not specifically address the sharing of BWC data with other law enforcement agencies; however, Paragraph (c) of the Review of Recorded Media Files section of the policy states that recorded files may be reviewed "[p]ursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case." Sgt. Olson advised us that other law enforcement agencies can submit requests for BWC data via agency email. These requests can be directed either to Chief Juve or Sgt. Olson.

Requests from prosecutors are made via email, and otherwise follow the procedures described above.

We recommend that FPD add language to its policy clarifying that BWC data is shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the request. We also recommend that FPD obtain written requests from partner agencies for BWC data and retain copies of these requests. Finally, we recommend FPD take steps to remind the receiving agency of its responsibility under §13.825 Subd. 8, to maintain BWC data security.

Prior to the completion of this report, FPD submitted a revised BWC policy that includes the language changes recommended above.

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. This is addressed in the Release of Audio/Video Recordings subsection of FPD's BWC policy.

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

### **FPD BWC Data Classification**

The Access to Recordings section of FPD's BWC policy states: "Except as provided by Minn. Stat. § 13.825 Subd. 2, audio/video recordings are considered private or nonpublic data."

As noted in the preceding section, FPD's BWC policy addresses the 2023 legislative updates regarding data documenting incidents involving the use of deadly force.

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

#### **FPD BWC Internal Compliance Verification**

The Review of Recorded Media Files section of FPD's BWC policy states:

The Chief of Police or designee will review recorded files of each recording device/officer randomly on a weekly basis, minimum of 3 per month. The Chief of Police or designee will randomly audit the history of the recorded 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.

Sgt. Olson advised us that Chief Juve conducts reviews as described above; however, while the system tracks each time a video is viewed, it does not record a reason for the viewing and he does not maintain a separate log.

The Accountability section of the policy states:

Any member who accesses or releases recordings without authorization may be subject to discipline... Unauthorized alteration, destruction, downloading or viewing of BWC/recorded data is prohibited. Any violation of the policy may result in disciplinary action as well as potential criminal penalties.

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. This requirement is addressed in the Review of Recorded Media Files section of FPD's BWC policy.

As noted above, FPD's BWC policy addresses the possibility of both disciplinary and criminal consequences for the unauthorized access to or release of protected data.

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

#### **FPD BWC Program and Inventory**

FPD currently possesses four (4) Motorola V300 body-worn cameras, one for each officer in the agency.

The Prohibited Use of Audio/Video Recorders section of FPD's BWC policy states that "[w]hile 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."

The FPD 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.

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. This requirement is addressed in the Member Responsibilities section of FPD's BWC policy; however, while the policy mandates that uniformed personnel wear their BWC at or above the mid-line of the waist, it merely requires that non-uniformed personnel wear their BWC "in a conspicuous manner." Although all of FPD's personnel are currently uniformed, because Minn. Stat. §626.8473 Subd. 3(b)(2) does not contain any exceptions for non-uniformed personnel, we recommend that FPD revise their BWC policy to reflect this requirement.

Sgt. Olson advised us that she is able to determine the number of BWCs deployed by reviewing the schedule and/or payroll data.

As of May 27, 2026, FPD maintained 1,145 BWC video files.

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

FPD BWC data are initially recorded to a hard drive in each officer's BWC. Data from each BWC is then uploaded to Motorola's CommandCentral cloud service via a physical docking station located at the Fosston Police Department.

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. Officers also have the ability to view videos created by other personnel; however, all BWC data access is logged automatically and available for audit purposes.

### **Enhanced Surveillance Technology**

FPD currently employs BWCs with only standard audio/video recording capabilities. FPD 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.

If FPD 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

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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 FPD records.

**Audit Conclusions**

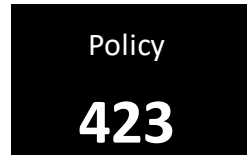
In our opinion, the FPD's Body-Worn Camera Program is compliant with Minnesota Statutes §13.825 and §626.8473.

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

Rampart Audit, LLC

6/29/2026

# APPENDIX A:



Fosston Police  
Department  
Fosston PD Policy Manual

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## Portable Audio/Video Recorders

### 423.1 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 Fosston Police Department facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices).

#### 423.1.1 DEFINITIONS

Definitions related to this policy include:

**Portable recording system** - A device worn by a member that is capable of both video and audio recording of the member's activities and interactions with others or collecting digital multimedia evidence as part of an investigation and as provided in Minn. Stat. § 13.825.

### 423.2 POLICY

The Fosston Police Department may provide members with access to portable recorders for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

### 423.3 COORDINATOR

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

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

- (b) 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).
- (b) Establishing procedures for accessing data and recordings.
  - 1. These procedures should include the process to obtain written authorization for access to non-public data by FPD members and members of other governmental entities and agencies.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging, or marking events.
- (e) Establishing an inventory of portable recorders including:
  - 1. Total number of devices owned or maintained by the Fosston Police Department.
  - 2. Daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used.
  - 3. Total amount of recorded audio and video data collected by the devices and maintained by the Fosston Police Department.
- (f) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- (g) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Fosston Police Department that expands the type or scope of surveillance capabilities of the department's portable recorders.
- (h) Ensuring that this Portable Audio/Video Recorders Policy is posted on the Department website.

#### **423.4 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.

#### **423.5 MEMBER RESPONSIBILITIES**

Prior to going into service, uniformed members will be responsible for making sure that they are equipped with a portable recorder issued by the 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 their supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed

members should wear the recorder in a conspicuous manner at or above the mid-line of the waist and notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. § 626.8473).

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

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

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

#### 423.5.1 PROPER MARKING OF FOOTAGE

It is the responsibility of each member to ensure all recordings are properly marked at the end of each shift. If for some reason member is unable to mark recording at the end of shift, it is to be done at the next opportunity. All recordings will be marked correctly before days off begin. Each recording shall be marked with call type, officer, and retention period. Title of each recording will be the corresponding CFS or ICR number.

### **423.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER**

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify Dispatch
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears

to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

#### 423.6.1 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.

#### 423.6.2 SURREPTITIOUS RECORDINGS

Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02).

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.

#### 423.6.3 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.

### **423.7 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, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

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.

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

or ridicule.

#### **423.8 RETENTION OF RECORDINGS**

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 90 days.

If an individual captured in a recording submits a written request, the recording shall be retained for 180 days. The coordinator should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

The following recordings shall be retained for the minimum period of (1) one year.

1) Any reportable firearm discharge. 2) Any use of force by an officer that results in substantial bodily harm. 3) Any incident that results in a formal complaint against an officer:

The following recordings shall be retained indefinitely:

1) Any recording documenting a Peace Officer's use of deadly force incident.

Members shall not alter, erase, or destroy any recordings before the end of the applicable records retention period (Minn. Stat. § 626.8473).

##### **423.8.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

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.

#### 423.8.2 ACCESS TO RECORDINGS

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

Any person captured in a recording may have access to the recording. If the individual requests a copy of the recording and does not have the consent of other non-law enforcement individuals captured on the recording, the identity of those individuals must be blurred or obscured sufficiently to render the subject unidentifiable prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under Minn. Stat. § 13.82, Subd. 17.

#### **423.9 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark the recordings in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an under-cover officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Minnesota Data Practices Act.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

#### **423.10 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:

- (a) The Chief of Police or designee will review recorded files of each recording device/ officer randomly on a weekly basis, minimum of 3 per month. The Chief of Police or designee will randomly audit the history of the recorded 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.
- (b) 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.
- (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (d) By media personnel with permission of the Chief of Police or the authorized designee.
- (e) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Chief of Police or 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).

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 command and control of another chief law enforcement officer or federal law enforcement official;

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 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, except as otherwise provided in this clause and clause (5):

- (i) the deceased individual's next of kin;
- (ii) the legal representative of the deceased individual's next of kin;

(iii) the other parent of the deceased individual's child.

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 of 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;

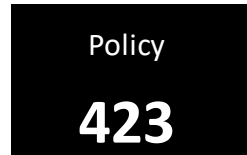
When an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency shall release all portable recording system data, redacted no more than what is required by law, documenting the incident no later than 14 days after the incident, unless the

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.

#### **423.11 ACCOUNTABILITY**

Any member who accesses or releases recordings without authorization may be subject to discipline (see the Standards of Conduct and the Protected Information policies) (Minn. Stat. § 626.8473). Unauthorized alteration, destruction, downloading or viewing of BWC/recorded data is prohibited. Any violation of the policy may result in disciplinary action as well as potential criminal penalties.

# APPENDIX B:



Fosston Police  
Department  
Fosston PD Policy Manual

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## Portable Audio/Video Recorders

### 423.1 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 Fosston Police Department facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices).

#### 423.1.1 DEFINITIONS

Definitions related to this policy include:

**Portable recording system** - A device worn by a member that is capable of both video and audio recording of the member's activities and interactions with others or collecting digital multimedia evidence as part of an investigation and as provided in Minn. Stat. § 13.825.

### 423.2 POLICY

The Fosston Police Department may provide members with access to portable recorders for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

### 423.3 COORDINATOR

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

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

- (b) 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).
- (b) Establishing procedures for accessing data and recordings.
  - 1. These procedures should include the process to obtain written authorization for access to non-public data by FPD members and members of other governmental entities and agencies.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging, or marking events.
- (e) Establishing an inventory of portable recorders including:
  - 1. Total number of devices owned or maintained by the Fosston Police Department.
  - 2. Daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used.
  - 3. Total amount of recorded audio and video data collected by the devices and maintained by the Fosston Police Department.
- (f) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- (g) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Fosston Police Department that expands the type or scope of surveillance capabilities of the department's portable recorders.
- (h) Ensuring that this Portable Audio/Video Recorders Policy is posted on the Department website.

#### **423.4 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.

#### **423.5 MEMBER RESPONSIBILITIES**

Prior to going into service, uniformed members will be responsible for making sure that they are equipped with a portable recorder issued by the 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 their supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed

members should wear the recorder in a conspicuous manner at or above the mid-line of the waist and notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. § 626.8473).

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a portable recorder, the assigned member shall record their name, employee number, and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording

device and related software captures the user's unique identification and the date and time of each recording.

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

#### 423.5.1 PROPER MARKING OF FOOTAGE

It is the responsibility of each member to ensure all recordings are properly marked at the end of each shift. If for some reason member is unable to mark recording at the end of shift, it is to be done at the next opportunity. All recordings will be marked correctly before days off begin. Each recording shall be marked with call type, officer, and retention period. Title of each recording will be the corresponding CFS or ICR number.

### **423.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER**

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify Dispatch
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

#### 423.6.1 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.

#### 423.6.2 SURREPTITIOUS RECORDINGS

Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02).

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.

#### 423.6.3 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.

### **423.7 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, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

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.

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

#### **423.8 RETENTION OF RECORDINGS**

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 90 days.

If an individual captured in a recording submits a written request, the recording shall be retained for 180 days. The coordinator should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

The following recordings shall be retained for the minimum period of (1) one year.

1) Any reportable firearm discharge. 2) Any use of force by an officer that results in substantial bodily harm. 3) Any incident that results in a formal complaint against an officer:

The following recordings shall be retained indefinitely:

1) Any recording documenting a Peace Officer's use of deadly force incident.

Members shall not alter, erase, or destroy any recording made with a peace officer's portable recording system or data and metadata related to the recording prior to the expiration of the applicable retention period (Minn. Stat. § 626.8473).

##### **423.8.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

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.

Data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of disclosure.

Data will be made available to prosecutors, courts and other criminal justice entities as provided by law.

#### 423.8.2 ACCESS TO RECORDINGS

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

Any person captured in a recording may have access to the recording. If the individual requests a copy of the recording and does not have the consent of other non-law enforcement individuals captured on the recording, the identity of those individuals must be blurred or obscured sufficiently to render the subject unidentifiable prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under Minn. Stat. § 13.82, Subd. 17.

#### **423.9 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark the recordings in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.

- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an under-cover officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Minnesota Data Practices Act.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

#### **423.10 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:

- (a) The Chief of Police or designee will review recorded files of each recording device/ officer randomly on a weekly basis, minimum of 3 per month. The Chief of Police or designee will randomly audit the history of the recorded 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.
- (b) 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.
- (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (d) By media personnel with permission of the Chief of Police or the authorized designee.
- (e) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Chief of Police or 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).

#### **423.11 ACCOUNTABILITY**

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 command and control of another chief law enforcement officer or federal law enforcement official.

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). Unauthorized alteration, destruction, downloading or viewing of BWC/recorded data is prohibited. Any violation of the policy may result in disciplinary action as well as potential criminal penalties.