

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 10/24/2016  
Item No.: 12.a

Department Approval

City Manager Approval



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Item Description: **Public Hearing for Input on a Portable Recording System, aka, (Body Worn Cameras) Policy**

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**BACKGROUND**

The Police Department intends on implementing a Portable Recording System (PRS), otherwise known as body worn cameras, in 2017. PRS have been increasingly important in law enforcement across the country. Citizens rightly demand transparency in law enforcement and PRS is a great tool in providing it. The Minnesota Chiefs of Police Association estimates that at least 40 police agencies in Minnesota are using or testing PRS in 2016. It is believed that PRS will soon become as widely used as in-squad cameras are now for law enforcement.

The Department has been testing PRS from two companies- Taser (3 cameras) and Panasonic (1-2 cameras)- for the past two years. Panasonic is the current vendor for the Department's in-squad cameras which have been in operation since 2009. Panasonic's PRS used by the Department is in a beta-testing environment with the Department giving user feedback to the company. The next commercially available PRS from Panasonic will not be available until approximately April of 2017. Taser's PRS is currently available and are in use by many law enforcement agencies across Minnesota.

A user group within the Police Department will research PRS from other vendors, ultimately rank them and forward the rankings to the chief for selection.

The proposed 2017 and 2018 CIP accounts for \$41,715 each year to replace the existing in-squad cameras. The Department intends to purchase PRS in 2017 using this fund and replace in-squad cameras as they fail by using other budgetary and/or non-budgetary funds. It is expected this amount of money will pay for 50 PRS- one for each officer with two available as spare units. PRS cameras themselves range in price from \$400-800 each. Data storage is another variable. The Department expects to keep the 2018 CIP fund intact in order to replace additional in-squad cameras in 2018 as they are beyond their expected useful life.

In the 2016 Legislative Session, the Minnesota Legislature passed updates into the existing MN Data Practices Statute 13.82. subd. 2 involving PRS. Part of the update mandates that law enforcement agencies incorporating PRS have a policy and the governing bodies incorporate public input into the

31 development of the policy at a “regularly-scheduled meeting”.

32

33 The updated statute accompanies this RCA and the information on public input begins in section 8.28  
34 and is highlighted in yellow.

35

36 The draft policy has been under discussion with a working group within the Police Department. A post-  
37 working group draft policy accompanies this RCA and a copy has been available on the Police  
38 Department’s website since the first week of October. The League of Minnesota Cities authored a  
39 model policy which also accompanies this RCA.

40

41 The Police Department will also accept public input by mail and electronically by a survey which has  
42 been available on the Police Department’s website since the first week of October. We expect input will  
43 be received until mid- November in order to finalize the policy by 12/31/16, to comply with the state  
44 statute.

#### 45 **POLICY OBJECTIVE**

46 This objective meets all of the requirements set forth in state statute.

#### 47 **FINANCIAL IMPACTS**

48

49 No expected financial impacts in hosting the public meeting and soliciting input from the community.

50

51 Financial impacts will undoubtedly impact operations in 2017 after the implementation of PRS across  
52 the Department. The Department is not currently staffed to complete the mandatory task of copying all  
53 in-squad camera videos for criminal prosecution. The videos must be made available to the prosecuting  
54 attorney at the time of the first court appearance of each arrested person. The Department has made  
55 arrangements with the City Attorney’s office to copy some in-squad videos at an additional cost to the  
56 Department in order to meet the mandate.

57

58 Copying mandatory PRS videos for prosecution by current staff is not be possible at current staffing  
59 levels. Currently the officers testing Taser PRS make copies themselves at a considerable cost of time.  
60 They are off the street for hours at a time while making necessary copies.

61

62 The Department previously presented a 2017 Budget request to City Manager Trudgeon for a part-time  
63 Investigative Aid that was not included in the City Manager’s 2017 Budget Request. The aid would  
64 have two main duties- data mine for stolen property and suspect information in the Automated Pawn  
65 System (APS)- along with copying PRS and in-squad videos. The Investigative Aid would also allow  
66 the Department to better serve the public in returning stolen goods to the proper owner, develop suspect  
67 information in stolen property cases and allow the current detective that spends at least 25% of his work  
68 day data mining in APS to pay additional attention to other criminal cases.

69

70 A past five-year average of the annual pawn license fee and APS transaction fees received as income for  
71 the City is \$68,258. Currently, these funds are deposited in the City’s General Fund. The Department  
72 expects the part-time Investigative Aid will cost approximately \$27,000/year, plus some first year start  
73 up expenses.

74 **STAFF RECOMMENDATION**

75 Hold the public hearing to solicit input from the public on the proposed Roseville Police Department  
76 Policy on a Portable Recording System.

77 **REQUESTED COUNCIL ACTION**

78  
79 Hold the public hearing to solicit input from the public on the proposed Roseville Police Department Policy  
80 on a Portable Recording System.

81

Prepared by: Chief Rick Mathwig  
Attachment A. Draft Portable Recording System policy  
Attachment B. 2016 MN State Statue, 13.82, sub 2  
Attachment C. LMCIT Model Policy

1 ROSEVILLE POLICE DEPARTMENT

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3 PATROL PROCEDURE: 31x

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5 EFFECTIVE: November 2016

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8 **SUBJECT: Portable Recording System (PRS)**

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11 **PURPOSE**

12 To establish guidelines for the use, management, storage, retrieval and duplication of video and audio  
13 media recorded by the Portable Recording System (PRS). The Roseville Police Department may provide  
14 members with access to a PRS for use during the performance of their duties. The use of a PRS is  
15 intended to enhance the mission of the Department by accurately capturing contacts between members  
16 of the Department and the public.  
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21 **I. POLICY**

22 The Roseville Police Department may provide members with access to portable recorders for use  
23 during the performance of their duties. The use of the recorders is intended to enhance the  
24 mission of the Department by documenting contacts between members of the Department and  
25 the public. Digital evidence captured by the portable recording system is not all inclusive. The  
26 system captures a less broad and less detailed image than the totality of the human senses.  
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30 **II. PORTABLE RECORDING SYSTEM PROGRAM OBJECTIVES**

31 The Roseville Police Department has adopted the use of PRSs to accomplish the following  
32 objectives:

- 33  
34  
35 A. To enhance accountability and public trust by preserving evidence of officer's interactions  
36 with citizens.  
37  
38 B. Capture digital audio-video evidence for criminal, civil and traffic-related court cases.  
39  
40 C. Assist officers with recalling factors or other details captured by the equipment that will help  
41 them accurately articulate a chain of events when writing reports.  
42  
43 D. Be used as a training tool for officer safety and best practices in the Roseville Police  
44 Department.  
45

46  
47 **II. SCOPE**

48 This policy governs the use of PRSs in the course of official duties. It does not apply to the use of  
49 surreptitious recording devices in undercover operations or the use of squad-based (dash-cam)  
50 video recorders. The chief or chief's designee may supersede this policy by providing specific  
51 instructions for the use of PRSs to individual officers, or providing specific instructions for the use  
52 of PRSs pertaining to certain events or classes of events, including but not limited to protests and  
53 demonstrations.  
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56

57 **III. DEFINITIONS**

- 58
- 59 A. Portable recording system: A device worn by a peace officer that is capable of both video
- 60 and audio recording of the officer's activities and interactions with others or collecting digital
- 61 multimedia evidence as part of an investigation.
- 62
- 63 B. Portable recording system data: Audio or video data collected by a portable recording
- 64 system.
- 65
- 66 C. Redact: blur video or distort audio so that the identity of the subject in a recording is
- 67 obscured sufficiently to render the subject unidentifiable.
- 68
- 69 D. General citizen contact: An informal encounter with a citizen that is not and does not become
- 70 law enforcement-related or adversarial, and a recording of the event would not yield
- 71 information relevant to an ongoing investigation. Examples include, but are not limited to,
- 72 assisting a motorist with directions, community outreach events (COE's), summoning a tow
- 73 truck, or receiving generalized concerns from a citizen about crime trends in his or her
- 74 neighborhood.
- 75
- 76 E. Evidentiary value: Information that may be useful as proof in a criminal prosecution, related
- 77 civil or administrative proceeding, further investigation of an actual or suspected criminal act,
- 78 or in considering an allegation against a law enforcement agency or officer.
- 79
- 80 F. Adversarial: An encounter with a person that becomes confrontational, during which at least
- 81 one person expresses anger, resentment, or hostility toward the other, or at least one person
- 82 directs toward the other verbal conduct consisting of arguing, threatening, challenging,
- 83 swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or
- 84 initiates recording on his or her own are deemed adversarial.
- 85

86

87 **IV. USE AND DOCUMENTATION**

- 88
- 89 A. Officers may only use department-issued PRS in the performance of official duties for this
- 90 agency or when otherwise performing authorized law enforcement services as an employee
- 91 of this department.
- 92
- 93 B. All Officers who are issued a PRS must receive training in the use of the PRS by an
- 94 authorized representative. Only those officers that have been issued a PRS and have
- 95 received the department authorized training may operate a PRS. All RPD employees who
- 96 use the PRS systems shall receive training on these systems and this policy.
- 97
- 98 C. All officers issued a PRS are required to wear and use their PRS while working in any
- 99 uniformed assignment. This applies to overtime assignments and uniformed off-duty
- 100 employment in the City of Roseville.
- 101
- 102 D. Officers should wear their PRS at the location on their body and in the manner specified in
- 103 training.
- 104
- 105 E. Officers shall conduct a function test of their issued PRS at the beginning of their shift to
- 106 make sure the devices are operating properly. Officers noting a malfunction during testing or
- 107 any other time shall promptly report the malfunction to the on-duty supervisor and shall
- 108 complete an Equipment Service Request. A replacement PRS should be used, if available.
- 109 Officers shall not attempt maintenance or repair of any component of the PRS.
- 110
- 111 F. Officers must document their use and non-use of the PRS as follows:
- 112

- 113 1. Whenever an officer makes a recording, the existence of the recording shall be  
114 documented in the incident report. If no incident report exists, then the existence of the  
115 recording will be documented through the classification process.
- 116 2. If there is a failure to record an activity that is required to be recorded under this policy or  
117 only captures a part of the activity, the officer must document the circumstances and  
118 reasons for not recording in an incident report or CAD record.
- 119
- 120 G. The PRS is not a replacement for an officer's written report.
- 121
- 122 H. Officers failing to adhere to this policy or applicable laws regarding the use of a PRS and any  
123 associated data, including but not limited to restrictions regarding accessing such data, are  
124 subject to discipline, up to and including termination.
- 125
- 126 I. The department will maintain the following records and documents relating to PRS use, which  
127 are classified as public data: 1). The total number of PRSs owned or maintained by the  
128 agency, 2) A daily record of the total number of PRSs actually deployed and used by officers,  
129 3) The total amount of recorded PRS data collected and maintained; and 4) This policy,  
130 together with the Records Retention Schedule.
- 131
- 132 J. By department policy: no department employee will take any actions intended to damage or  
133 render any part of the PRS inoperable, overwrite recorded data, or defeat the intended use of  
134 the PRS.
- 135
- 136

137 **V. GENERAL GUIDELINES FOR RECORDING**

138

- 139 A. At no time is an officer expected to jeopardize his or her safety in order to activate the PRS.  
140 Officer safety and public safety take precedence over recording events. Officer safety and  
141 the safety of the public shall be the primary considerations when contacting citizens or  
142 conducting vehicle stops, not the ability to record an event. Officers need not activate their  
143 cameras when it would be unsafe, impossible, or impractical to do so. However, the PRS  
144 should be activated as soon as practical. In such instances of not recording when otherwise  
145 required, it must be documented as specified in the Use and Documentation guidelines  
146 (section IV).
- 147
- 148 B. This policy is not intended to describe every possible situation in which the PRS should be  
149 used. Members should activate the recorder any time the member believes it would be  
150 appropriate or valuable to record an incident.
- 151
- 152 C. Officers shall activate their PRSs when responding to all calls for service and during all law  
153 enforcement-related encounters and activities, including but not limited to pursuits, *Terry*  
154 stops of motorists and pedestrians, traffic stops, arrests, searches, suspect interviews and  
155 interrogations, and during any police/citizen contacts that becomes adversarial.
- 156
- 157 D. Officers should activate their PRS prior to any use of force. If a PRS is not activated prior to  
158 a use of force, it should be activated as soon as safe to do so.
- 159
- 160 E. Officers shall activate their PRS when directed to do so by a supervisor.
- 161
- 162 F. Officers should use their PRS to record their transportation and the physical transfer of  
163 persons in their custody to hospitals, detox, mental health care facilities, juvenile detention  
164 centers, court of laws and jails, but otherwise should not record in these facilities unless the  
165 officer anticipates witnessing a criminal event or being involved in or witnessing an  
166 adversarial encounter or use-of-force incident.
- 167
- 168 G. All strip searches shall be recorded by at least one person present during the entirety of the

169 strip search, including all pre-search instructions provided to the person being searched. The  
170 camera shall be positioned to assure that only audio data is collected and that the person  
171 being searched is not captured on video.  
172

- 173 H. Except as otherwise directed, officers have discretion to record or not record incidental  
174 general citizen contacts that do not become law enforcement-related or adversarial, and  
175 when a recording of the event would not yield information relevant to an ongoing  
176 investigation. Examples include, but are not limited to, assisting a motorist with directions,  
177 summoning a tow truck, or receiving generalized concerns from a citizen about crime trends  
178 in his or her neighborhood.  
179
- 180 I. Officers need not record persons being provided medical care unless there is reason to  
181 believe that the recording would document information having evidentiary value. When  
182 responding to an apparent mental health crisis or event, PRSs should be activated as  
183 necessary to document any use of force and the basis for it, and any other information having  
184 evidentiary value, but need not be activated when doing so would serve only to record  
185 symptoms of behaviors believed to be attributable to the mental health issues.  
186
- 187 J. Officers have no affirmative duty to inform people that a PRS is being operated or that the  
188 individuals are being recorded. Officers may elect to notify people they encounter that a PRS  
189 is being operated if they feel that doing so may de-escalate an encounter. If asked, officers  
190 are required to provide a factual response about recording.  
191
- 192 K. When taking a formal statement from a victim or witness, an officer should make an attempt  
193 to notify a victim or witness on the use of the PRS, unless they believe that it would distract  
194 from the investigation.  
195
- 196 L. Once activated, the PRS should continue recording until the conclusion of the incident or until  
197 it becomes readily apparent that additional recording is unlikely to capture information having  
198 any evidentiary value. A sergeant, supervisor, or detective having charge of a scene can  
199 likewise direct the discontinuance of recording when further recording is unlikely to capture  
200 additional information having evidentiary value. Officers shall state the reasons for ceasing  
201 the recording on camera before deactivating their PRS. If circumstances change, officers  
202 shall reactivate their cameras as required by this policy to capture information having  
203 evidentiary value.  
204
- 205 M. Officers may cease recording under the following situations:  
206
- 207 1. To protect the identity of an officer in an undercover capacity.
  - 208 2. To protect the identity of an informant.
  - 209 3. If a request is made for a PRS to be turned off by a party being contacted, the officer  
210 should take into account the overall circumstances and what is most beneficial to all  
211 involved, before deciding to honor the request. For example, an officer may choose to  
212 turn off the PRS if its operation is inhibiting a victim or witness from giving a statement.  
213 Factors to consider may include the type of call and the vulnerability of the victim, such  
214 as the victim of a sexual assault.
  - 215 4, Recording may be temporarily ceased to exchange information with other officers. The  
216 reason to cease and resume recording will be noted by the officer verbally on the PRS or  
217 in a written report.
  - 218 5. When a supervisor has determined in advance that the video or audio data could result in  
219 the disclosure of operational or tactical information that would compromise the  
220 effectiveness of future actions or jeopardize officer safety.
  - 221 6. When it reasonably appears to the officer that an individual's privacy outweighs any  
222 legitimate law enforcement interest in recording. Recording should resume when privacy  
223 is no longer at issue unless the circumstances no longer fit the criteria for recording.  
224

- 225 N. Officers shall not intentionally block the PRS audio or visual recording functionality to defeat  
226 the purposes of this policy.  
227
- 228 O. Notwithstanding any other provision in this policy, officers shall not use their PRS to record  
229 other agency personnel during non-enforcement related activities, such as during pre- and  
230 post-shift time in locker rooms, during meal breaks, or during other private conversations.  
231 The Chief of Police may authorize the use of PRS's as part of an administrative or internal  
232 criminal investigation.  
233

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235 **VI. DOWNLOADING AND LABELING DATA**  
236

- 237 A. Each officer using a PRS is responsible for transferring or ensuring the proper transfer of the  
238 data from his or her camera to the designated data storage location by the end of that  
239 officer's shift. If there is an unforeseen issue in transferring, a supervisor should be notified.  
240
- 241 B. If an officer is involved in a shooting, in-custody death, or other law enforcement activity  
242 resulting in death or great bodily harm, a supervisor or detective shall take custody of the  
243 officer's PRS and assume responsibility for transferring the data from it. If an investigating  
244 agency requests to take control of the PRS, the data must first be transferred to the  
245 department's servers and the chief of police or designee must authorize the transfer of the  
246 PRS to the outside agency.  
247
- 248 C. Officers should classify the PRS data files at the time of video capture or transfer to storage.  
249 See Appendix A for the classifications and definitions.  
250

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253 **VII. ACCESS TO PRS DATA**  
254

- 255 A. It is not the intent of the department to review digital evidence for the purpose of general  
256 performance review, for routine preparations of performance reports, or to discover policy  
257 violations.  
258
- 259 B. Access to PRS data shall be limited to the employee who captures the video, supervisory  
260 personnel, and those detectives or officers who are participating in an official department  
261 investigation.  
262
- 263 C. Officers may access and view stored PRS data of incidents in which they have been directly  
264 involved. Officers can view saved data to 1) Refresh memories of events and statements  
265 prior to completing reports or making statements, 2) Ensure the system is operating properly  
266 and/or 3) Self-Critique.  
267
- 268 D. Officers may display portions of the PRS footage to witnesses for purposes of investigation as  
269 allowed by Minn. State 13.82, subd 15. Officers should generally limit these displays in order  
270 to protect against the incidental disclosure of individuals whose identities are not public.  
271
- 272 E. PRS data may be shared with other law enforcement agencies only for legitimate law  
273 enforcement purposes. It shall be made available to prosecutors, courts, and other criminal  
274 justice entities as provided by law.  
275
- 276 F. No employee may access the department's PRS data except for legitimate law enforcement  
277 or data administration purposes.  
278
- 279 G. Agency personnel shall document their reasons for accessing stored PRS data at the time of  
280 each access. Agency personnel are prohibited from accessing PRS data for non-business



281 reasons and from sharing the data for non-law enforcement related purposes, including  
282 uploading PRS data recorded or maintained by this agency to public and social media  
283 websites.

- 284
- 285 H. Employees seeking access to PRS data for non-business reasons may make a request for it  
286 in the same manner as any member of the public.
- 287
- 288 I. Personally owned devices, including but not limited to computers and mobile devices, shall  
289 not be programmed or used to access or view agency PRS data.
- 290
- 291 J. Officers shall not intentionally edit, alter or erase any PRS recording unless otherwise  
292 expressly authorized by the chief or the chief's designee.
- 293
- 294

295

296 **VIII. AGENCY USE OF DATA**

297

- 298 A. At least once a month, supervisors will randomly review PRS usage by each officer to ensure  
299 compliance with this policy.
- 300
- 301 B. Supervisors and other assigned personnel may access PRS data for the purposes of  
302 reviewing or investigating a specific incident that has given rise to a complaint or concern  
303 about officer misconduct or performance.
- 304
- 305 C. Officers should contact their supervisors to discuss retaining and using PRS footage for  
306 training purposes. Officer objections need to be submitted to the Chief of Police to determine  
307 if the value of training outweighs the officer's objection to releasing the video.
- 308
- 309 D. Field Training officers may utilize PRS data with trainees for the purpose of providing  
310 coaching and feedback on the trainee's performance.
- 311
- 312 E. PRS data may be viewed for administrative purposes to include, but not limited to:
- 313
- 314 1. Any incident where a member of the department is injured or killed during the performance  
315 of their duties.
  - 316 2. Any incident involving the use of force by a member of the department so the supervisor  
317 can validate the force used was within policy.
  - 318 3. Any in-custody death.
  - 319 4. Any police pursuit.
  - 320 5. When any member of the Department intentionally or unintentionally discharges a firearm  
321 at a person regardless whether an individual is struck.
  - 322 6. Officer Involved traffic collision.
  - 323 7. Prior to release of recording in response to proper legal request (Ex: subpoena or other  
324 court order)
  - 325 8. In preparation for a civil deposition or responding to an interrogatory where the incident  
326 arises from the employee's official duties.
  - 327 9. When preparing to testify in a criminal, civil or administrative proceeding arising from the  
328 employee's official duties.
  - 329 10. For investigations undertaken by the Department, for the purpose of proving or disproving  
330 specific allegations of misconduct. For administrative proceedings, when digital evidence  
331 is used by the Department for the purpose of proving or disproving allegations of  
332 misconduct, only digital evidence relevant to the investigative scope shall be viewed and  
333 retained by investigators. Information relevant to the recordings viewed and seized as  
334 evidence by investigators shall be documented as part of the chronological summary of  
335 any investigation undertaken by the Department.
- 336

337 F. Supervisors reviewing event recording should remain focused on the incident or incidents in  
338 question and review only those recording relevant to their investigative scope. If improper  
339 conduct is discovered during any review of digital evidence, the Supervisor may take the  
340 necessary steps to counsel or initiate an internal affairs investigation in adherence with  
341 department policy.  
342

343 **IX. Administering Access to PRS Data**

- 344 A. Data subjects: Under Minnesota law, the following are considered data subjects for  
345 purposes of administering access to PRS data:  
346  
347 1. Any person or entity whose image or voice is documented in the data.  
348 2. The officer who collected the data.  
349 3. Any other officer whose voice or image is documented in the data, regardless of whether  
350 that officer is or can be identified by the recording.  
351  
352 B. PRS data is presumptively private. PRS recordings are classified as private data about the  
353 data subjects unless there is a specific law that provides differently. As a result:  
354  
355 1. PRS data pertaining to people is presumed private, as is PRS data pertaining to  
356 businesses or other entities.  
357 2. Some PRS data is classified as confidential (see C. below).  
358 3. Some PRS data is classified as public (see D. below).  
359  
360 C. Confidential data: PRS data that is collected or created as part of an active criminal  
361 investigation is confidential. This classification takes precedence over the “private”  
362 classification listed above and the “public” classification listed below.  
363  
364 D. Public Data: The following PRS data is public:  
365  
366 1. Data documenting the discharged of a firearm by a peace officer in the course of duty,  
367 other than for training or the killing of an animal that is sick, injured, or dangerous.  
368 2. Data that documents the use of force by a peace officer that results in substantial bodily  
369 harm.  
370 3. Data that a data subject requests to be made accessible to the public, subject to  
371 redaction. Data on any data subject (other than a peace officer) who has not consented  
372 to the public release must be redacted if practicable. In addition, any data on undercover  
373 officers must be redacted.  
374 4. Data that documents the final disposition of a disciplinary action against a public  
375 employee.  
376  
377 E. Access to PRS data by non-employees: Officers shall refer members of the media or public  
378 seeking access to PRS data to person designated by the Chief of Police, who shall process  
379 the request in accordance with the MGDPA and other governing laws. In particular:  
380  
381 1. An individual shall be allowed to review recorded PRS data about him or herself and  
382 other data subjects in the recording, but access shall not be granted:  
383  
384 a. If the data was collected or created as part of an active investigation.  
385 b. To portions of the data that the agency would otherwise be prohibited by law from  
386 disclosing to the person seeking access, such as portions that would reveal identities  
387 protected by Minn. Stat 13.82, subd. 17.  
388  
389 2. Unless the data is part of an active investigation, an individual data subject shall be  
390 provided with a copy of the recording upon request, but subject to the following guidelines  
391 on redaction:  
392

- 393 a. Data on other individuals in the recording who do not consent to the release must be  
394 redacted.  
395 b. Data that would identify undercover officers must be redacted.  
396 c. Data on other officers who are not undercover , and who are on duty and engaged in  
397 the performance of official duties, may not be redacted.  
398  
399  
400

401 **X. RETENTION AND COPYING OF RECORDED DATA**

- 402  
403 A. Much of the data saved on the server will not be needed for long term retention and will be  
404 automatically purged after a minimal time period or when a determination is made that the  
405 data no longer needs to be retained. See Appendix A for retention schedules.  
406  
407 B. Other recorded data will require long term retention and/or transfer to another type of media.  
408 Copies of recorded data may be made for the following reasons:  
409  
410 1. For use as evidence in court  
411 2. For review by prosecuting or defense attorneys  
412 3. For use in investigating complaints against officers  
413 4. To assist officers and investigators in an investigation  
414 5. For officer review prior to a court appearance  
415 6. For long term records archiving  
416 7. For use as authorized training material  
417 8. As part of a data request  
418 9. Other uses as approved the Chief of Police  
419  
420 C. The duplication of recorded data from the server to other media is the responsibility of a  
421 person(s) designated by the Chief of Police and trained in the operation of the server and  
422 duplicating equipment. Requests for duplicate recorded data should be made in writing a  
423 minimum of two days prior to need and submitted to the person(s) designated by the Chief  
424 of Police to duplicate data. The data request should include: 1) Case number, 2) Data and  
425 time of incident, 3) Name and badge number of officer making the original recording and 4)  
426 Reason for the copy. After use, all duplicates shall be returned to the property room  
427 manager for disposition.  
428  
429 D. The copying of all data will be for official business only and subject to Minnesota Data  
430 Practices laws. Exceptions shall be approved by the Chief of Police. Data recorded by the  
431 PRS and stored on any media is classified as official government data and subject to  
432 Minnesota data practices.  
433  
434 E. All PRS data shall be retained for a minimum period of 90 days. There are no exceptions for  
435 erroneously recorded or non-evidentiary data.  
436  
437 F. Data documenting the discharged of a firearm by a peace office in the course of duty, other  
438 than for training or the killing of an animal that is sick, injured, or dangerous, must be  
439 maintained for a minimum period of one year.  
440  
441 G. Certain kinds of PRS data must be retained for six years:  
442  
443 1. Data that documents the use of deadly force by a peace officer.  
444 2. Data documenting circumstances that have given rise to a formal complaint against an  
445 officer.  
446  
447 H. PRS data that is classified as non-evidentiary, becomes classified as non-evidentiary, or is  
448 not maintained for training shall be destroyed after 90 days.

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- I. Upon written request by a PRS data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the suspect of up to 180 days. The agency will notify the requested at the time of the request that the data will then be destroyed unless a new written request is received.
- J. The department will post this policy and the records retention schedule on its website.
- K. The copying, viewing and distribution of any recorded data for any use not approved by the Chief of Police is prohibited.
- L. An independent, bi-annual audit will be conducted of the PRS data to determine if the data are appropriately classified, how the data are used and whether the data are destroyed per Minnesota Statute 13.82. The results of the audit are considered public information and will be reported to the Roseville City Council and the Legislative Commission on Data Practices and Personal Data Privacy no later than 60 days following the completion of the audit.



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Rick Mathwig  
Chief of Police

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## Appendix A.

### Data Retention

Classification	Definition	Retention
AOA	Footage captured while assisting other agency that may contain evidence	120 days
Arrest	Custodial arrest – No documented Use of Force	2 years
Discharge Firearm	Discharge Firearm per 626.553 Subd 2. Not included in Arrest Incident	1 year
Use of Force	Any Documented Use of Force	6 years
Formal Complaint	PRS data related to a formal complaint	6 years
Response	Response to CFS that does not result in any other classification	90 days
Interview/Investigative	Interview or incident captured on PRS that does not result in any classification	90 days
Test/Accidental Activation	System check at beginning of duty tour / accidental activation	90 days
Traffic Citation/Warn	Traffic stop resulting in citation/warn	1 year
Training	Event that could assist in department training	Manual
Data Subject Request	PRS data requested to be held by subject of data	180 days (subject to be notified before data is deleted)

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The retention period will provide department personnel an opportunity to retain the data according to guidelines as set forth in Minnesota Statutes and Ramsey County evidence retention guidelines.

**SENATE  
STATE OF MINNESOTA  
EIGHTY-NINTH SESSION**

**S.F. No. 498**

(SENATE AUTHORS: LATZ and Newman)

DATE	D-PG	OFFICIAL STATUS
02/02/2015	190	Introduction and first reading Referred to Judiciary
03/25/2015	1283a 1353 4868	Comm report: To pass as amended Second reading Rule 47, returned to Judiciary
03/14/2016	4977a 5016	Comm report: To pass as amended Second reading
04/21/2016	5941	Author added Newman
05/02/2016	6577a 6579	Special Order: Amended Third reading Passed
05/17/2016	7058 7058	Returned from House with amendment Senate not concur, conference committee of 3 requested
05/18/2016	7167	Senate conferees Latz; Kent; Ingebrigtsen
05/19/2016	7206	House conferees Cornish; Johnson, B., Hilstrom
05/21/2016	7358c 7366	Conference committee report, delete everything Senate adopted CC report and repassed bill Third reading
05/22/2016	7371	House adopted SCC report and repassed bill Presentment date 05/24/16 Governor's action Approval 05/31/16 Secretary of State Chapter 171 05/31/16

A bill for an act

1.1  
1.2 relating to data practices; classifying portable recording system data; establishing  
1.3 requirements for the destruction of data; requiring written policies and  
1.4 procedures; imposing requirements on vendors; providing for damage awards;  
1.5 requiring a legislative auditor review; amending Minnesota Statutes 2014,  
1.6 section 13.82, subdivisions 6, 7, 15; Minnesota Statutes 2015 Supplement,  
1.7 section 13.82, subdivision 2; proposing coding for new law in Minnesota  
1.8 Statutes, chapters 13; 626.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2015 Supplement, section 13.82, subdivision 2, is  
1.11 amended to read:

1.12 Subd. 2. **Arrest data.** The following data created or collected by law enforcement  
1.13 agencies which document any actions taken by them to cite, arrest, incarcerate or  
1.14 otherwise substantially deprive an adult individual of liberty shall be public at all times  
1.15 in the originating agency:

1.16 (a) time, date and place of the action;

1.17 (b) any resistance encountered by the agency;

1.18 (c) any pursuit engaged in by the agency;

1.19 (d) whether any weapons were used by the agency or other individual;

1.20 (e) the charge, arrest or search warrants, or other legal basis for the action;

1.21 (f) the identities of the agencies, units within the agencies and individual persons

1.22 taking the action;

1.23 (g) whether and where the individual is being held in custody or is being incarcerated  
1.24 by the agency;

1.25 (h) the date, time and legal basis for any transfer of custody and the identity of the  
1.26 agency or person who received custody;

2.1 (i) the date, time and legal basis for any release from custody or incarceration;

2.2 (j) the name, age, sex and last known address of an adult person or the age and sex  
2.3 of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived  
2.4 of liberty;

2.5 (k) whether the agency employed ~~an~~ a portable recording system, automated license  
2.6 plate reader, wiretaps or other eavesdropping techniques, unless the release of this specific  
2.7 data would jeopardize an ongoing investigation;

2.8 (l) the manner in which the agencies received the information that led to the arrest  
2.9 and the names of individuals who supplied the information unless the identities of those  
2.10 individuals qualify for protection under subdivision 17; and

2.11 (m) response or incident report number.

2.12 Sec. 2. Minnesota Statutes 2014, section 13.82, subdivision 6, is amended to read:

2.13 Subd. 6. **Response or incident data.** The following data created or collected by  
2.14 law enforcement agencies which document the agency's response to a request for service  
2.15 including, but not limited to, responses to traffic accidents, or which describe actions taken  
2.16 by the agency on its own initiative shall be public government data:

2.17 (a) date, time and place of the action;

2.18 (b) agencies, units of agencies and individual agency personnel participating in the  
2.19 action unless the identities of agency personnel qualify for protection under subdivision 17;

2.20 (c) any resistance encountered by the agency;

2.21 (d) any pursuit engaged in by the agency;

2.22 (e) whether any weapons were used by the agency or other individuals;

2.23 (f) a brief factual reconstruction of events associated with the action;

2.24 (g) names and addresses of witnesses to the agency action or the incident unless the  
2.25 identity of any witness qualifies for protection under subdivision 17;

2.26 (h) names and addresses of any victims or casualties unless the identities of those  
2.27 individuals qualify for protection under subdivision 17;

2.28 (i) the name and location of the health care facility to which victims or casualties  
2.29 were taken;

2.30 (j) response or incident report number;

2.31 (k) dates of birth of the parties involved in a traffic accident;

2.32 (l) whether the parties involved were wearing seat belts; ~~and~~

2.33 (m) the alcohol concentration of each driver; and

2.34 (n) whether the agency used a portable recording system to document the agency's  
2.35 response or actions.

3.1 Sec. 3. Minnesota Statutes 2014, section 13.82, subdivision 7, is amended to read:

3.2 Subd. 7. **Criminal investigative data.** Except for the data defined in subdivisions  
3.3 2, 3, and 6, investigative data collected or created by a law enforcement agency in order  
3.4 to prepare a case against a person, whether known or unknown, for the commission of a  
3.5 crime or other offense for which the agency has primary investigative responsibility are  
3.6 confidential or protected nonpublic while the investigation is active. Inactive investigative  
3.7 data are public unless the release of the data would jeopardize another ongoing investigation  
3.8 or would reveal the identity of individuals protected under subdivision 17. Images and  
3.9 recordings, including photographs, video, and audio records, which are part of inactive  
3.10 investigative files and which are clearly offensive to common sensibilities are classified  
3.11 as private or nonpublic data, provided that the existence of the ~~photographs~~ images and  
3.12 recordings shall be disclosed to any person requesting access to the inactive investigative  
3.13 file. An investigation becomes inactive upon the occurrence of any of the following events:

3.14 (a) a decision by the agency or appropriate prosecutorial authority not to pursue  
3.15 the case;

3.16 (b) expiration of the time to bring a charge or file a complaint under the applicable  
3.17 statute of limitations, or 30 years after the commission of the offense, whichever comes  
3.18 earliest; or

3.19 (c) exhaustion of or expiration of all rights of appeal by a person convicted on  
3.20 the basis of the investigative data.

3.21 Any investigative data presented as evidence in court shall be public. Data  
3.22 determined to be inactive under clause (a) may become active if the agency or appropriate  
3.23 prosecutorial authority decides to renew the investigation.

3.24 During the time when an investigation is active, any person may bring an action in  
3.25 the district court located in the county where the data are being maintained to authorize  
3.26 disclosure of investigative data. The court may order that all or part of the data relating to  
3.27 a particular investigation be released to the public or to the person bringing the action. In  
3.28 making the determination as to whether investigative data shall be disclosed, the court  
3.29 shall consider whether the benefit to the person bringing the action or to the public  
3.30 outweighs any harm to the public, to the agency or to any person identified in the data.  
3.31 The data in dispute shall be examined by the court in camera.

3.32 Sec. 4. Minnesota Statutes 2014, section 13.82, subdivision 15, is amended to read:

3.33 Subd. 15. **Public benefit data.** Any law enforcement agency may make any data  
3.34 classified as confidential or protected nonpublic pursuant to subdivision 7 or as private  
3.35 or nonpublic under section 13.825 accessible to any person, agency, or the public if the



4.1 agency determines that the access will aid the law enforcement process, promote public  
4.2 safety, or dispel widespread rumor or unrest.

4.3 **Sec. 5. [13.825] PORTABLE RECORDING SYSTEMS.**

4.4 **Subdivision 1. Application; definition.** (a) This section applies to law enforcement  
4.5 agencies that maintain a portable recording system for use in investigations, or in response  
4.6 to emergencies, incidents, and requests for service.

4.7 (b) As used in this section:

4.8 (1) "portable recording system" means a device worn by a peace officer that is  
4.9 capable of both video and audio recording of the officer's activities and interactions with  
4.10 others or collecting digital multimedia evidence as part of an investigation;

4.11 (2) "portable recording system data" means audio or video data collected by a  
4.12 portable recording system; and

4.13 (3) "redact" means to blur video or distort audio so that the identity of the subject in  
4.14 a recording is obscured sufficiently to render the subject unidentifiable.

4.15 **Subd. 2. Data classification; court-authorized disclosure.** (a) Data collected by a  
4.16 portable recording system are private data on individuals or nonpublic data, subject to  
4.17 the following:

4.18 (1) data that document the discharge of a firearm by a peace officer in the course  
4.19 of duty, if a notice is required under section 626.553, subdivision 2, or the use of force  
4.20 by a peace officer that results in substantial bodily harm, as defined in section 609.02,  
4.21 subdivision 7a, are public;

4.22 (2) data are public if a subject of the data requests it be made accessible to the public,  
4.23 except that, if practicable, (i) data on a subject who is not a peace officer and who does not  
4.24 consent to the release must be redacted, and (ii) data on a peace officer whose identity is  
4.25 protected under section 13.82, subdivision 17, clause (a), must be redacted;

4.26 (3) portable recording system data that are active criminal investigative data are  
4.27 governed by section 13.82, subdivision 7, and portable recording system data that are  
4.28 inactive criminal investigative data are governed by this section;

4.29 (4) portable recording system data that are public personnel data under section  
4.30 13.43, subdivision 2, clause (5), are public; and

4.31 (5) data that are not public data under other provisions of this chapter retain that  
4.32 classification.

4.33 (b) A law enforcement agency may redact or withhold access to portions of data  
4.34 that are public under this subdivision if those portions of data are clearly offensive to  
4.35 common sensibilities.

5.1 (c) Section 13.04, subdivision 2, does not apply to collection of data classified  
5.2 by this subdivision.

5.3 (d) Any person may bring an action in the district court located in the county where  
5.4 portable recording system data are being maintained to authorize disclosure of data that  
5.5 are private or nonpublic under this section or to challenge a determination under paragraph  
5.6 (b) to redact or withhold access to portions of data because the data are clearly offensive to  
5.7 common sensibilities. The person bringing the action must give notice of the action to the  
5.8 law enforcement agency and subjects of the data, if known. The law enforcement agency  
5.9 must give notice to other subjects of the data, if known, who did not receive the notice from  
5.10 the person bringing the action. The court may order that all or part of the data be released to  
5.11 the public or to the person bringing the action. In making this determination, the court shall  
5.12 consider whether the benefit to the person bringing the action or to the public outweighs  
5.13 any harm to the public, to the law enforcement agency, or to a subject of the data and, if  
5.14 the action is challenging a determination under paragraph (b), whether the data are clearly  
5.15 offensive to common sensibilities. The data in dispute must be examined by the court in  
5.16 camera. This paragraph does not affect the right of a defendant in a criminal proceeding to  
5.17 obtain access to portable recording system data under the Rules of Criminal Procedure.

5.18 Subd. 3. **Retention of data.** (a) Portable recording system data that are not active  
5.19 or inactive criminal investigative data and are not described in paragraph (b) must be  
5.20 maintained for at least 90 days and destroyed according to the agency's records retention  
5.21 schedule approved pursuant to section 138.17.

5.22 (b) Portable recording system data must be maintained for at least one year and  
5.23 destroyed according to the agency's records retention schedule approved pursuant to  
5.24 section 138.17 if:

5.25 (1) the data document (i) the discharge of a firearm by a peace officer in the course  
5.26 of duty if a notice is required under section 626.553, subdivision 2, or (ii) the use of force  
5.27 by a peace officer that results in substantial bodily harm; or

5.28 (2) a formal complaint is made against a peace officer related to the incident.

5.29 (c) If a subject of the data submits a written request to the law enforcement agency  
5.30 to retain the recording beyond the applicable retention period for possible evidentiary or  
5.31 exculpatory use related to the circumstances under which the data were collected, the law  
5.32 enforcement agency shall retain the recording for an additional time period requested by  
5.33 the subject of up to 180 days and notify the requester that the recording will then be  
5.34 destroyed unless a new request is made under this paragraph.

6.1 (d) Notwithstanding paragraph (b) or (c), a government entity may retain a recording  
6.2 for as long as reasonably necessary for possible evidentiary or exculpatory use related to  
6.3 the incident with respect to which the data were collected.

6.4 Subd. 4. **Access by data subjects.** (a) For purposes of this chapter, a portable  
6.5 recording system data subject includes the peace officer who collected the data, and any  
6.6 other individual or entity, including any other peace officer, regardless of whether the officer  
6.7 is or can be identified by the recording, whose image or voice is documented in the data.

6.8 (b) An individual who is the subject of portable recording system data has access to  
6.9 the data, including data on other individuals who are the subject of the recording. If the  
6.10 individual requests a copy of the recording, data on other individuals who do not consent  
6.11 to its release must be redacted from the copy. The identity and activities of an on-duty  
6.12 peace officer engaged in an investigation or response to an emergency, incident, or request  
6.13 for service may not be redacted, unless the officer's identity is subject to protection under  
6.14 section 13.82, subdivision 17, clause (a).

6.15 Subd. 5. **Inventory of portable recording system technology.** A law enforcement  
6.16 agency that uses a portable recording system must maintain the following information,  
6.17 which is public data:

6.18 (1) the total number of recording devices owned or maintained by the agency;

6.19 (2) a daily record of the total number of recording devices actually deployed and  
6.20 used by officers and, if applicable, the precincts in which they were used;

6.21 (3) the policies and procedures for use of portable recording systems required by  
6.22 section 626.8473; and

6.23 (4) the total amount of recorded audio and video data collected by the portable  
6.24 recording system and maintained by the agency, the agency's retention schedule for the  
6.25 data, and the agency's procedures for destruction of the data.

6.26 Subd. 6. **Use of agency-issued portable recording systems.** While on duty, a peace  
6.27 officer may only use a portable recording system issued and maintained by the officer's  
6.28 agency in documenting the officer's activities.

6.29 Subd. 7. **Authorization to access data.** (a) A law enforcement agency must comply  
6.30 with sections 13.05, subdivision 5, and 13.055 in the operation of portable recording  
6.31 systems and in maintaining portable recording system data.

6.32 (b) The responsible authority for a law enforcement agency must establish written  
6.33 procedures to ensure that law enforcement personnel have access to the portable recording  
6.34 system data that are not public only if authorized in writing by the chief of police, sheriff,  
6.35 or head of the law enforcement agency, or their designee, to obtain access to the data for a  
6.36 legitimate, specified law enforcement purpose.

7.1 Subd. 8. **Sharing among agencies.** (a) Portable recording system data that are not  
7.2 public may only be shared with or disseminated to another law enforcement agency, a  
7.3 government entity, or a federal agency upon meeting the standards for requesting access to  
7.4 data as provided in subdivision 7.

7.5 (b) If data collected by a portable recording system are shared with another state or  
7.6 local law enforcement agency under this subdivision, the agency that receives the data must  
7.7 comply with all data classification, destruction, and security requirements of this section.

7.8 (c) Portable recording system data may not be shared with, disseminated to, sold to,  
7.9 or traded with any other individual or entity unless explicitly authorized by this section  
7.10 or other applicable law.

7.11 Subd. 9. **Biennial audit.** (a) A law enforcement agency must maintain records  
7.12 showing the date and time portable recording system data were collected and the  
7.13 applicable classification of the data. The law enforcement agency shall arrange for  
7.14 an independent, biennial audit of the data to determine whether data are appropriately  
7.15 classified according to this section, how the data are used, and whether the data are  
7.16 destroyed as required under this section, and to verify compliance with subdivisions 7  
7.17 and 8. If the governing body with jurisdiction over the budget of the agency determines  
7.18 that the agency is not complying with this section or other applicable law, the governing  
7.19 body may order additional independent audits. Data in the records required under this  
7.20 paragraph are classified as provided in subdivision 2.

7.21 (b) The results of the audit are public, except for data that are otherwise classified  
7.22 under law. The governing body with jurisdiction over the budget of the law enforcement  
7.23 agency shall review the results of the audit. If the governing body determines that there is  
7.24 a pattern of substantial noncompliance with this section, the governing body must order  
7.25 that operation of all portable recording systems be suspended until the governing body has  
7.26 authorized the agency to reinstate their use. An order of suspension under this paragraph  
7.27 may only be made following review of the results of the audit and review of the applicable  
7.28 provisions of this chapter, and after providing the agency and members of the public a  
7.29 reasonable opportunity to respond to the audit's findings in a public meeting.

7.30 (c) A report summarizing the results of each audit must be provided to the governing  
7.31 body with jurisdiction over the budget of the law enforcement agency and to the  
7.32 Legislative Commission on Data Practices and Personal Data Privacy no later than 60  
7.33 days following completion of the audit.

7.34 Subd. 10. **Notification to BCA.** Within ten days of obtaining new surveillance  
7.35 technology that expands the type or scope of surveillance capability of a portable recording  
7.36 system device beyond video or audio recording, a law enforcement agency must notify the

8.1 Bureau of Criminal Apprehension that it has obtained the new surveillance technology.  
 8.2 The notice must include a description of the technology and its surveillance capability  
 8.3 and intended uses. The notices are accessible to the public and must be available on the  
 8.4 bureau's Web site.

8.5 Subd. 11. **Portable recording system vendor.** (a) For purposes of this subdivision,  
 8.6 "portable recording system vendor" means a person who is not a government entity and  
 8.7 who provides services for the creation, collection, retention, maintenance, processing, or  
 8.8 dissemination of portable recording system data for a law enforcement agency or other  
 8.9 government entity. By providing these services to a government entity, a vendor is subject  
 8.10 to all of the requirements of this chapter as if it were a government entity.

8.11 (b) A portable recording system vendor that stores portable recording system data in  
 8.12 the cloud must protect the data in accordance with the security requirements of the United  
 8.13 States Federal Bureau of Investigation Criminal Justice Information Services Division  
 8.14 Security Policy 5.4 or its successor version.

8.15 (c) Subject to paragraph (d), in an action against a vendor under section 13.08 for a  
 8.16 violation of this chapter, the vendor is liable for presumed damages of \$2,500 or actual  
 8.17 damages, whichever is greater, and reasonable attorney fees.

8.18 (d) In an action against a vendor that improperly discloses data made not public by this  
 8.19 chapter or any other statute classifying data as not public, the vendor is liable for presumed  
 8.20 damages of \$10,000 or actual damages, whichever is greater, and reasonable attorney fees.

8.21 Subd. 12. **Penalties for violation.** In addition to any other remedies provided by  
 8.22 law, in the case of a willful violation of this section a law enforcement agency is subject  
 8.23 to exemplary damages of not less than twice the minimum, nor more than twice the  
 8.24 maximum allowable for exemplary damages under section 13.08, subdivision 1.

8.25 **EFFECTIVE DATE.** This section is effective August 1, 2016. Data collected  
 8.26 before the effective date of this section must be destroyed, if required by this section, no  
 8.27 later than 15 days after the date this section becomes effective.

8.28 **Sec. 6. [626.8473] PORTABLE RECORDING SYSTEMS ADOPTION;**  
 8.29 **WRITTEN POLICY REQUIRED.**

8.30 **Subdivision 1. Definition.** As used in this section, "portable recording system" has  
 8.31 the meaning provided in section 13.825, subdivision 1.

8.32 **Subd. 2. Public comment.** A local law enforcement agency must provide an  
 8.33 opportunity for public comment before it purchases or implements a portable recording  
 8.34 system. At a minimum, the agency must accept public comments submitted electronically

9.1 or by mail, and the governing body with jurisdiction over the budget of the law enforcement  
 9.2 agency must provide an opportunity for public comment at a regularly-scheduled meeting.

9.3 **Subd. 3. Written policies and procedures required.** (a) The chief officer of every  
 9.4 state and local law enforcement agency that uses or proposes to use a portable recording  
 9.5 system must establish and enforce a written policy governing its use. In developing and  
 9.6 adopting the policy, the law enforcement agency must provide for public comment and  
 9.7 input as provided in subdivision 2. Use of a portable recording system without adoption of  
 9.8 a written policy meeting the requirements of this section is prohibited. The written policy  
 9.9 must be posted on the agency's Web site, if the agency has a Web site.

9.10 (b) At a minimum, the written policy must incorporate the following:

9.11 (1) the requirements of section 13.825 and other data classifications, access  
 9.12 procedures, retention policies, and data security safeguards that, at a minimum, meet the  
 9.13 requirements of chapter 13 and other applicable law;

9.14 (2) procedures for testing the portable recording system to ensure adequate  
 9.15 functioning;

9.16 (3) procedures to address a system malfunction or failure, including requirements  
 9.17 for documentation by the officer using the system at the time of a malfunction or failure;

9.18 (4) circumstances under which recording is mandatory, prohibited, or at the  
 9.19 discretion of the officer using the system;

9.20 (5) circumstances under which a data subject must be given notice of a recording;

9.21 (6) circumstances under which a recording may be ended while an investigation,  
 9.22 response, or incident is ongoing;

9.23 (7) procedures for the secure storage of portable recording system data and the  
 9.24 creation of backup copies of the data; and

9.25 (8) procedures to ensure compliance and address violations of the policy, which  
 9.26 must include, at a minimum, supervisory or internal audits and reviews, and the employee  
 9.27 discipline standards for unauthorized access to data contained in section 13.09.

9.28 **EFFECTIVE DATE.** This section is effective August 1, 2016, provided that a law  
 9.29 enforcement agency using a portable recording system on that date must adopt the policy  
 9.30 required under this section no later than January 15, 2017.

9.31 **Sec. 7. LEGISLATIVE AUDITOR REVIEW.**

9.32 Beginning no earlier than January 1, 2019, the legislative auditor is requested to  
 9.33 conduct a comprehensive review of compliance with the requirements of Minnesota  
 9.34 Statutes, sections 13.825 and 626.8473. Data used for purposes of the review must  
 9.35 include the results of the biennial audits required by Minnesota Statutes, section

10.1 13.825, subdivision 9, and may also include any other data that, in the judgment of the  
10.2 legislative auditor, assists in developing a complete understanding of any compliance  
10.3 or implementation issues resulting from enactment of those sections. The legislative  
10.4 auditor is requested to submit the results of the comprehensive review to the legislature  
10.5 no later than January 15, 2020.

## Body-Worn Cameras Policy

### League of Minnesota Cities Model Policy

This League model policy was thoughtfully developed by our staff with the guidance of a working group. Models should be customized as appropriate for an individual city's circumstances in consultation with the city's attorney. Helpful background information on this model may be found in "[Use of Body-Worn Cameras](#)".

Where optional provisions are offered, you must choose one of the options, but choosing "option 1," for example, does not require you to choose "option 1" at every choice point.

**Red typeface** indicates that the language is included in response to a statutory mandate for guidance on that particular topic. While this language is recommended, agencies may certainly have other options for addressing mandatory policy elements.



This icon marks comments that explain the reasons for inclusion of particular language in the model, or that will help you decide on different possible approaches offered in the policy. Delete them before adopting your customized policy.

*[Italic brackets]* Text marked this way is a placeholder for agency-specific language.

## CITY OF *[CITY NAME]*

### 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.



The reference to tense and uncertain circumstances is derived from the U.S. Supreme Court's decision in [Graham v. Connor, 490 U.S. 386, 397 \(1989\)](#).

#### **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



46 details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and  
47 mental health facilities.  
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Members of the model policy working group expressed that the policy should: (1) allow for the issuance of special instructions on BWC use to officers deemed to be *Giglio*-impaired; and (2) ensure that discretion exists to override normal recording guidelines for events where their use might be perceived as a form of political or viewpoint-based surveillance. In addition, members identified a concern that the “general” guidelines for BWC use could be poorly suited to the activities performed by court bailiffs, and that agencies should therefore have express authority to depart from them for special assignments and duties.

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## 57 Definitions

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

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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.



County agencies will need to modify the policy to meet their own record retention schedule.

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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.



“[R]elated civil or administrative proceeding” refers, for example, to implied consent or forfeiture actions arising from an encounter or arrest. The working group sought to clarify that the policy does not obligate officers to collect BWC data solely for use in third-party tort litigation.

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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.



This definition is used to identify conflict situations, since they may evolve into more consequential matters or give rise to complaints against officers. Later provisions in this policy require officers to record adversarial encounters. Some working group members disfavored the term “adversarial,” and agencies may wish to consider other terminology better suited to their communities.

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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.

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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.

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## Use and Documentation

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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.

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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.

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Under Minn. Stat. § 626.8473, subd. 3(b)(2)-(3), policies must contain procedures for identifying and addressing malfunctions, including procedures for officers to test the functioning of their equipment. The actual steps to be used for function testing will likely vary based on the systems and technologies in place. Agencies should consider incorporating device-specific protocols for function testing into this policy. Satisfactory documentation of malfunctions and steps taken to address them could include emails, notes, or memoranda that the agency maintains as part of its BWC program records.

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C. Officers should wear their issued BWCs at the location on their body and in the manner specified in training.

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D. Officers must document BWC use and non-use as follows:

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Agencies may need to conform the requirements and terminology of parts D (1) and (2) to their records management system or existing business practices. These provisions are recommended to assure that agencies document and maintain information about: (1) recordings, so that existing ones can be located, linked to a particular event, and disclosed by the prosecution as may be required by criminal discovery obligations; and (2) instances of non-recording, when it would be reasonable to expect BWC footage to exist in the circumstances.

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- 143 1. Whenever an officer makes a recording, the existence of the recording shall be  
144 documented in an incident report or *[CAD record/other documentation of the event]*.  
145  
146 2. Whenever an officer fails to record an activity that is required to be recorded under  
147 this policy or captures only a part of the activity, the officer must document the  
148 circumstances and reasons for not recording in an incident report or *[CAD*  
149 *record/other documentation of the event]*. Supervisors shall review these reports and  
150 initiate any corrective action deemed necessary.  
151  
152 E. The department will maintain the following records and documents relating to BWC use,  
153 which are classified as public data:  
154  
155 1. The total number of BWCs owned or maintained by the agency;  
156  
157 2. A daily record of the total number of BWCs actually deployed and used by officers  
158 and, if applicable, the precincts in which they were used;  
159  
160 3. The total amount of recorded BWC data collected and maintained; and  
161  
162 4. This policy, together with the Records Retention Schedule.  
163

## 164 General Guidelines for Recording

### 165 Choose one:

- 166 A. **[Option 1]** Officers shall activate their BWCs when responding to all calls for service and  
167 during all law enforcement-related encounters and activities, including but not limited to  
168 pursuits, *Terry* stops of motorists or pedestrians, arrests, searches, suspect interviews and  
169 interrogations, and during any police/citizen contacts that becomes adversarial. However,  
170 officers need not activate their cameras when it would be unsafe, impossible, or  
171 impractical to do so, but such instances of not recording when otherwise required must be  
172 documented as specified in the Use and Documentation guidelines, part (D)(2) (above).  
173

174



175 See LMC Information Memo, "[Use of Body-Worn Cameras](#)," Section IV, Deciding what to record.  
176 Option 1 requires the recording of all responses to calls for service and law enforcement-related  
177 activities.

178  
179 Or,

- 180  
181 A. **[Option 2]** Officers shall activate their BWCs when anticipating that they will be  
182 involved in, become involved in, or witness other officers of this agency involved in a  
183 pursuit, *Terry* stop of a motorist or pedestrian, search, seizure, arrest, use of force,  
184 adversarial contact, and during other activities likely to yield information having  
185 evidentiary value. However, officers need not activate their cameras when it would be  
186 unsafe, impossible, or impractical to do so, but such instances of not recording when  
187 otherwise required must be documented as specified in the Use and Documentation  
188 guidelines, part (D)(2) (above).

189



Option 2 more narrowly defines the class of events to be recorded. As compared with Option 1, this language: (1) eliminates the requirement of recording all responses to calls for service; (2) continues to require the recording of contacts and events having constitutional dimensions and those likely to result in complaints against officers and agencies; and (3) leaves it to officers to identify other circumstances “likely to yield information having evidentiary value.”

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- 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.



Some commentators suggest that an announcement that BWCs are being used might have a civilizing effect in the field, and advocate telling people they are being recorded. However, the working group believed that an announcement requirement would distract officers from their duties and could become a debating point during tense enforcement encounters.

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- 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.



A statement on camera such as, “Everything has settled down and the action appears to be over” should often suffice as a statement of reasons for stopping to record.

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- E. Officers shall not intentionally block the BWC’s audio or visual recording functionality to defeat the purposes of this policy.

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This provision is to be read in conjunction with the statement of “Purpose” set forth above: “The primary purpose of using BWCs is to capture *evidence* arising from police-citizen encounters.” The working group considered a variety of scenarios in which it would be appropriate for officers to block the recording functionality of their BWCs, such as to avoid capturing irrelevant images of an undressed bystander within a private home; images of a mobile computer screen displaying private or confidential data; or audio of officers conferring about an arrest decision or tactical situation. Momentary blocking may be administratively preferable to turning the camera off and back on, since doing so would result in multiple data files that would each need to be processed and administered.


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- 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.

238 **Special Guidelines for Recording**

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


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241 A. To use their BWCs to record any police-citizen encounter if there is reason to believe the  
242 recording would potentially yield information having evidentiary value, unless such  
243 recording is otherwise expressly prohibited.

244  
245  This provision is included to ensure that officers are clearly vested with discretion to use their  
246 BWCs to capture information having evidentiary value.


247  
248 B. To use their BWCs to take recorded statements from persons believed to be victims of  
249 and witnesses to crimes, and persons suspected of committing crimes, considering the  
250 needs of the investigation and the circumstances pertaining to the victim, witness, or  
251 suspect.

252  
253 In addition,

254  
255 C. Officers need not record persons being provided medical care unless there is reason to  
256 believe the recording would document information having evidentiary value. When  
257 responding to an apparent mental health crisis or event, BWCs shall be activated as  
258 necessary to document any use of force and the basis for it, and any other information  
259 having evidentiary value, but need not be activated when doing so would serve only to  
260 record symptoms or behaviors believed to be attributable to the mental health issue.

261  
262  The language in parts B and C is for use with Option 2 under General guidelines for recording.  
263 This language is unnecessary and confusing for agencies choosing Option 1, since Option 1  
264 already requires the recording of all responses to calls for service and all law enforcement-related  
encounters and activities.

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

273  
274  Agencies should consider recording all transports of persons in custody as a safeguard against  
275 liability and to document any incriminating statements. The best means of accomplishing this may  
276 depend on the technologies the agency is using. While squad-based audio/video systems with rear-  
facing cameras may be better suited for recording a prisoner’s behavior during transport, the  
officer’s BWC may capture more of the officer’s interaction with the prisoner at the time he or she  
is removed from the car and transferred to the custody of another.


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281 **Downloading and Labeling Data**

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283 A. Each officer using a BWC is responsible for transferring or assuring the proper transfer of  
284 the data from his or her camera to *[specify data storage location]* by the end of that  
285 officer’s shift. However, if the officer is involved in a shooting, in-custody death, or other

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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.


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290  Agencies will need to conform this language to their own technologies and business practices. The central idea is that the responsibility for handling daily transfers of routine BWC data rests with the individual officer unless the process is automated. However, when the officer is involved in a significant event that will result in the agency immediately initiating an investigation, then someone else (an appropriate supervisor or investigator) should take custody of the involved officer's BWC and take care of transferring the data. Doing so will safeguard the integrity of the evidence and protect the officer against allegations of mishandling evidence.

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- 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:

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300  See Section V-A, Labeling data for retention purposes, in Information Memo, "[Use of Body-Worn Cameras](#)."

1. **Evidence—criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.


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310  The Records Retention Schedule for Minnesota Cities provides that retention periods for cases that have been charged are based on the status of court proceedings. (Code POL 05840.) For uncharged offenses, retention is seven years or permanent in the case of homicides (Code POL 03300 for adults; POL 03400 for juveniles). Counties will need to consult their own records retention schedule for guidance.

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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.


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320  These recordings must be maintained for six years regardless of the disposition of any related criminal case. (Code POL 05920.) Some working group members expressed a desire for use of a term different than "force" to describe this category. Agencies are free to adopt other terminology as they deem appropriate. Counties will need to consult their own records retention schedule for guidance.

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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.

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330  Evidence/property logs are subject to a one-year minimal retention period. (Code POL 03740.) Counties will need to consult their own records retention schedule for guidance.




335 4. **Evidence—administrative:** The incident involved an adversarial encounter or  
336 resulted in a complaint against the officer.  
337

337  The definition of “adversarial encounter” is intended to trigger the recording of interactions  
338 thought likely to result in complaints against an officer or the agency. Video that turns out to  
339 have evidentiary value in any internal investigation is subject to a six-year retention period.  
340 (Code POL 05880.) A shorter retention period may be utilized if no complaint or investigation  
341 arises. Counties will need to consult their own records retention schedule for guidance.  
342  
343


344 5. **Evidence—other:** The recording has potential evidentiary value for reasons  
345 identified by the officer at the time of labeling.  
346

346  Retention will depend on the reason stated for maintaining the data. Counties will need to  
347 consult their own records retention schedule for guidance.  
348


349 6. **Training:** The event was such that it may have value for training.  
350  
351

351  No minimal retention period exists. Counties will need to consult their own records retention  
352 schedule for guidance.  
353

354 7. **Not evidence:** The recording does not contain any of the foregoing categories of  
355 information and has no apparent evidentiary value. Recordings of general citizen  
356 contacts and unintentionally recorded footage are not evidence.  
357  
358

358  Data not identified as having evidentiary value is subject to a 90-day retention period under  
359 Minn. Stat. § 13.825, subd. 3(a).  
360

361 C. In addition, officers shall flag each file as appropriate to indicate that it contains  
362 information about data subjects who may have rights under the MGDPA limiting  
363 disclosure of information about them. These individuals include:  
364  
365

365  This provision assumes that the software being utilized will allow flagging. *See* Section V-B, Data  
366 access issues and flagging, in LMC Information Memo, “[Use of Body-Worn Cameras](#).”  
367

- 368 1. Victims and alleged victims of criminal sexual conduct and sex trafficking.
- 369 2. Victims of child abuse or neglect.
- 370 3. Vulnerable adults who are victims of maltreatment.
- 371 4. Undercover officers.
- 372 5. Informants.
- 373 6. When the video is clearly offensive to common sensitivities.
- 374 7. Victims of and witnesses to crimes, if the victim or witness has requested not to be  
375 identified publicly.  
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- 384 8. Individuals who called 911, and services subscribers whose lines were used to place a  
385 call to the 911 system.  
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387 9. Mandated reporters.  
388  
389 10. Juvenile witnesses, if the nature of the event or activity justifies protecting the  
390 identity of the witness.  
391  
392 11. Juveniles who are or may be delinquent or engaged in criminal acts.  
393  
394 12. Individuals who make complaints about violations with respect to the use of real  
395 property.  
396  
397 13. Officers and employees who are the subject of a complaint related to the events  
398 captured on video.  
399  
400 14. Other individuals whose identities the officer believes may be legally protected from  
401 public disclosure.  
402  
403 D. Labeling and flagging designations may be corrected or amended based on additional  
404 information.  
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#### 406 **Administering Access to BWC Data:**

- 407  
408 **A. Data subjects.** Under Minnesota law, the following are considered data subjects for  
409 purposes of administering access to BWC data:  
410  
411 1. Any person or entity whose image or voice is documented in the data.  
412  
413 2. The officer who collected the data.  
414  
415 3. Any other officer whose voice or image is documented in the data, regardless of  
416 whether that officer is or can be identified by the recording.  
417  
418 **B. BWC data is presumptively private.** BWC recordings are classified as private data  
419 about the data subjects unless there is a specific law that provides differently. As a result:  
420  
421 1. BWC data pertaining to people is presumed private, as is BWC data pertaining to  
422 businesses or other entities.  
423  
424 2. Some BWC data is classified as confidential (see C. below).  
425  
426 3. Some BWC data is classified as public (see D. below).  
427



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

431  
432 D. **Public data.** The following BWC data is public:

- 433
- 434 1. Data documenting the discharge of a firearm by a peace officer in the course of duty,  
435 other than for training or the killing of an animal that is sick, injured, or dangerous.
  - 436
  - 437 2. Data that documents the use of force by a peace officer that results in substantial  
438 bodily harm.
  - 439
  - 440 3. Data that a data subject requests to be made accessible to the public, subject to  
441 redaction. Data on any data subject (other than a peace officer) who has not consented  
442 to the public release must be redacted [*if practicable*]. In addition, any data on  
443 undercover officers must be redacted.
  - 444



The “if practicable” language is noted as optional but recommended because two sections of the law are in disagreement as to the privacy protections given to data subjects who have not consented to the release of data about themselves. Minn. Stat. §13.825, subd. 2(a)(2) provides that when a data subject requests that data be made available to the public, the agency must first, “*if practicable*,” redact data on all other non-officer subjects who have not consented to the public release. However, under subdivision 4(b) of the same statute, there is no “if practicable” qualification on the obligation to redact data on non-consenting data subjects when providing a requestor with a copy of the data. For the sake of affording consistent protection to non-consenting data subjects, agencies may wish to redact information about them in all cases.

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  - 455 4. Data that documents the final disposition of a disciplinary action against a public  
456 employee.
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458 However, if another provision of the Data Practices Act classifies data as private or  
459 otherwise not public, the data retains that other classification. For instance, data that  
460 reveals protected identities under Minn. Stat. § 13.82, subd. 17 (e.g., certain victims,  
461 witnesses, and others) should not be released even if it would otherwise fit into one of the  
462 public categories listed above.

463  
464 E. **Access to BWC data by non-employees.** Officers shall refer members of the media or  
465 public seeking access to BWC data to [*the responsible authority/data practices*  
466 *designee*], who shall process the request in accordance with the MGDPA and other  
467 governing laws. In particular:

- 468
- 469 1. An individual shall be allowed to review recorded BWC data about him- or herself  
470 and other data subjects in the recording, but access shall not be granted:
    - 471 a. If the data was collected or created as part of an active investigation.
- 472  
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- 474 b. To portions of the data that the agency would otherwise be prohibited by law  
475 from disclosing to the person seeking access, such as portions that would  
476 reveal identities protected by Minn. Stat. § 13.82, subd. 17.  
477  
478 2. Unless the data is part of an active investigation, an individual data subject shall be  
479 provided with a copy of the recording upon request, but subject to the following  
480 guidelines on redaction:

- 481 a. Data on other individuals in the recording who do not consent to the release  
482 must be redacted.  
483

484  See above note at section D(3) on public data.  
486

- 487 b. Data that would identify undercover officers must be redacted.  
488

- 489 c. Data on other officers who are not undercover, and who are on duty and  
490 engaged in the performance of official duties, may not be redacted.  
491

492 **F. Access by peace officers and law enforcement employees.** No employee may have  
493 access to the department’s BWC data except for legitimate law enforcement or data  
494 administration purposes:

495 **Choose one:**  
496

- 497  
498 1. **[Option 1]** Officers may access and view stored BWC video only when there is a  
499 business need for doing so, including the need to defend against an allegation of  
500 misconduct or substandard performance. Officers may review video footage of an  
501 incident in which they were involved prior to preparing a report, giving a statement,  
502 or providing testimony about the incident.

503  See Information Memo, “*Use of Body-Worn Cameras*”, Section V-C, Officer access to video and  
504 critical incidents.  
505

506 **Or,**  
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- 508  
509 1. **[Option 2]** Officers may access and view stored BWC video only when there is a  
510 business need for doing so, including the need to defend against an allegation of  
511 misconduct or substandard performance. Except as provided in the critical incident  
512 response policy, officers may review video footage of an incident in which they were  
513 involved prior to preparing a report, giving a statement, or providing testimony about  
514 the incident.  
515  
516 2. Agency personnel shall document their reasons for accessing stored BWC data *[in the*  
517 *manner provided within the database] [or, specify manner of documentation]* at the  
518 time of each access. Agency personnel are prohibited from accessing BWC data for  
519 non-business reasons and from sharing the data for non-law enforcement related


520 purposes, including but not limited to uploading BWC data recorded or maintained by  
521 this agency to public and social media websites.

522  
523 3. Employees seeking access to BWC data for non-business reasons may make a request  
524 for it in the same manner as any member of the public.

525  
526 **G. Other authorized disclosures of data.** Officers may display portions of BWC footage to  
527 witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82,  
528 subd. 15, as may be amended from time to time. Officers should generally limit these  
529 displays in order to protect against the incidental disclosure of individuals whose  
530 identities are not public. Protecting against incidental disclosure could involve, for  
531 instance, showing only a portion of the video, showing only screen shots, muting the  
532 audio, or playing the audio but not displaying video. In addition,

533  
534 1. BWC data may be shared with other law enforcement agencies only for legitimate  
535 law enforcement purposes that are documented in writing at the time of the  
536 disclosure.

537  
538 2. BWC data shall be made available to prosecutors, courts, and other criminal justice  
539 entities as provided by law.

540  
541  The documentation requirements in parts F(2) and G(1) are intended to foster accountability with  
542 regard to the limitations on access to and dissemination of BWC data applicable to law  
543 enforcement employees and to aid the agency in achieving favorable audit results.

544  
545 **Data Security Safeguards**

546  
547 *A. [Specify data security safeguards to be used in your agency and in connection with the*  
548 *particular BWC technologies being employed, including any procedures for making*  
549 *backup copies of the data.]*

550  
551 **Choose one:**

552 **B. [Option 1]** Personally owned devices, including but not limited to computers and mobile  
553 devices, shall not be programmed or used to access or view agency BWC data.

554  
555 **Or,**

556  
557 **B. [Option 2]** Access to BWC data from city or personally owned and approved devices  
558 shall be managed in accordance with established city policy.

559  
560 **C.** Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise  
561 expressly authorized by the chief or the chief's designee.

562  
563 **D.** As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this  
564 agency shall obtain an independent biennial audit of its BWC program.

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## 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 [and to identify any performance areas in which additional training or guidance is required.]



See Information Memo, "[Use of Body-Worn Cameras](#)", Section V-D, Supervisory review, for policy considerations pertaining to supervisory review of data for performance assessment.

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- 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.



This language is based on the Peace Officer Discipline Procedures Act, Minn. Stat. § 626.89, subd. 10.

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- 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

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- 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.



Minn. Stat. § 13.825, subd. 3(b) provides for the data referenced in Parts C(1) and C(2) to be maintained for a minimum of one year and then destroyed according to the agency's retention schedule. However, the General Records Retention Schedule for Minnesota Cities establishes

614 six-year retention periods for force incidents where a supervisory review is completed (Code  
615 POL 05929), and also for data that has evidentiary value in any internal investigation. (Code  
616 POL 05880.) Counties will need to consult their own records retention schedule for guidance.


617  
618 D. Other data having evidentiary value shall be retained for the period specified in the  
619 Records Retention Schedule. When a particular recording is subject to multiple retention  
620 periods, it shall be maintained for the longest applicable period.

621  
622  County agencies will need to consult their own records retention schedule for guidance.

623  
624 E. Subject to Part F (below), all other BWC footage that is classified as non-evidentiary,  
625 becomes classified as non-evidentiary, or is not maintained for training shall be destroyed  
626 after 90 days.

627  
628 F. Upon written request by a BWC data subject, the agency shall retain a recording  
629 pertaining to that subject for an additional time period requested by the subject of up to  
630 180 days. The agency will notify the requestor at the time of the request that the data will  
631 then be destroyed unless a new written request is received.

632  
633 G. The department shall maintain an inventory of BWC recordings having evidentiary value.

634  
635  The [General Records Retention Schedule for Minnesota Cities](#) indicates that agencies shall  
636 permanently maintain an inventory of evidentiary audio and video recordings. (POL 05810.)  
Counties will need to consult their own records retention schedule for guidance.

637  
638  
639 H. The department will post this policy, together with *[a link to]* its Records Retention  
640 Schedule, on its website.

## 641 642 **Compliance**

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