Policy Manual

Portable Audio/Video Recorders

418.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties (Minn. Stat. § 626.8473). Portable audio/video recording devices include all recording systems whether body-worn, handheld or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Roseville Police Department facility, undercover operations, wiretaps or eavesdropping (concealed listening devices) unless captured by a portable recording system.

418.1.1 DEFINITIONS

Definitions related to this policy include:

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

418.2 POLICY

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

418.3 COORDINATOR

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

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
 - The coordinator should work with the Custodian of Records and the member assigned to coordinate the use, access and release of protected information to ensure that procedures comply with requirements of the Minnesota Government Data Practices Act (MGDPA) and other applicable laws (Minn. Stat. § 13.01 et seq.) (See the Protected Information and the Records Maintenance and Release policies).
- (b) Establishing procedures for accessing data and recordings.
 - These procedures should include the process to obtain written authorization for access to non-public data by RPD members and members of other governmental entities and agencies.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.
- (e) Establishing an inventory of portable recorders including:

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- 1. Total number of devices owned or maintained by the Roseville Police Department.
- 2. Daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used.
- 3. Total amount of recorded audio and video data collected by the devices and maintained by the Roseville Police Department.
- (f) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- (g) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Roseville Police Department that expands the type or scope of surveillance capabilities of the department's portable recorders.

418.4 MEMBER PRIVACY EXPECTATION

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

418.5 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order (Minn. Stat. § 13.825). If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. § 626.8473).

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

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

418.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER

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

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

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

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

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

Except as otherwise directed, officers have discretion to record or not record incidental general citizen contacts that do not become law enforcement-related or adversarial, and when 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 tow truck, or receiving general concerns from a citizen about crime trends in their neighborhood.

Officers need not record persons being provided medical care unless there is reason to believe that the recording would document information having evidentiary value.

418.6.1 CESSATION OF RECORDING

Once activated, the PRS should continue recording until the conclusion of the incident or until it becomes readily apparent that additional recording is unlikely to capture information having any evidentiary value. A sergeant, supervisor, or detective in charge of a scene can likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. Officers should state the reasons for ceasing the recording on camera before deactivating their PRS. If circumstances change, officers shall reactivate their cameras as required by this policy.

Officers may cease recording under the following situations:

- (a) To protect the identity of an officer in an undercover capacity.
- (b) To protect the identity of an informant.
- (c) If a request is made for a PRS to be turned off by a party being contacted. The officer should take into account the overall circumstances and what is most beneficial to all

involved, before deciding to honor the request. For example, an officer may choose to turn off the PRS if its operation is inhibiting a victim or witness from giving a statement. Factors to consider may include the type of call and the vulnerability of the victim, such as the victim of a sexual assault.

- (d) Members may temporarily stop recording the audio (tactical mute) only when discussing sensitive tactics with other personnel. The use and justification of the tactical mute must verbalized with specificity before muting or documented with specificity in the incident report (or CAD notes if no report completed).
- (e) When a supervisor has determined in advance the video or audio data could result in the disclosure of operational or tactical information which would compromise the effectiveness of future actions or jeopardize officer safety if released.
- (f) When it reasonably appears to the officer that an individual's privacy outweighs any legitimate law enforcement interest in recording. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.
- (g) When recording is prohibited by a detention facility, detox, or medical facility.
- (h) At search warrant scenes, the PRS may be deactivated once the entry is complete and the scene is safe. This deactivation would only occur after suspects are arrested and removed from the warrant location. If removing all other occupants is not possible or reasonable, at a minimum the cover officer(s) will have their PRS activated.

418.6.2 SURREPTITIOUS RECORDINGS

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

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

418.6.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

418.7 PROHIBITED USE OF AUDIO/VIDEO RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while onduty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned

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recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Patrol Sergeant. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements and should notify the on-duty supervisor of such use as soon as reasonably practicable.

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

418.8 RETENTION OF RECORDINGS

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

The PRS data retention periods ensure that data is retained according to the guidelines set forth in Minnesota Statutes and Ramsey County evidence retention guidelines. Below is a list of PRS classifications, including definitions and retention periods.

- (a) Assist outside agency: Footage captured while assisting other agency that may contain evidence (120 days).
- (b) Arrest: Custodial arrest with no documented use of force (2 years).
- (c) Use of Force: Any documented use of force (7 years).
- (d) Response: Response to CFS that does not result in any other classification (90 days).
- (e) Interview/Investigate: Interview or incident response involving contact with complainant, reporting parties, witnesses, or suspects that does not result in a custodial arrest or use of force. (180 days).
- (f) Test/Accidental: System check at beginning of duty tour/accidental activation (90 days).
- (g) Traffic: All traffic stops (cite or warn), unless it is a custodial arrest or force is used. (1 year).
- (h) Training: Event that could assist in department training (manual retention and subject to approval by Chief of Police).
- (i) Data subject request: Data requested to be held by subject of data (180 days).
- (j) Formal Complaint: Data related to a formal complaint (7 years).
- (k) Discharge Firearm: Discharge of firearm per Minn. Stat. § 626.553, Subd. 2 and not documented as a use of force (1 year).

418.8.1 RELEASE OF AUDIO/VIDEO RECORDINGS

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

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418.8.2 ACCESS TO RECORDINGS

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

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

418.9 REVIEW OF RECORDED MEDIA FILES

Access to PRS data shall be limited to the employee who captures the video, supervisory personnel, and those detectives, officers, or support staff who are participating in an official department investigation. PRS data may be shared with other law enforcement agencies only for legitimate law enforcement purposes. It shall be made available to prosecutors, courts, and other criminal justice entities as provided by law (Minn. Stat. § 13.825, Subd8).

No employee may access the department's PRS data except for legitimate law enforcement or data administration purposes. The department shall restrict PRS data in compliance with state law and this policy. The department will maintain an electronic notation of the date, time, classification, and person with regard to each access to data. All employees who access PRS data outside of policy requirements and standard operating procedures will be required to document the reason for their access according to system capabilities.

All recordings should be reviewed by the Custodian of Records prior to public release (See the Records Maintenance and Release Policy). Recordings that are clearly offensive to common sensibilities should not be publicly released unless disclosure is required by law or order of the court (Minn. Stat. § 13.82, Subd. 7; Minn. Stat. § 13.825, Subd. 2).

418.9.1 MEMBER RESPONSIBILITIES

When preparing written reports, members should review their recordings as a resource. However, members shall not retain personal copies of recordings. Members may access and view stored PRS data of incidents in which they have been directly involved and view saved data to:

- (a) Refresh memories of events and statements prior to completing reports or making statements
- (b) Ensure the system is operating properly
- (c) Self-critique

Officers may display portions of the PRS footage to witnesses for purposes of investigation as allowed by Minn. Stat. § 13.82, Subd. 15. Officers should generally limit these displays in order to protect against the incidental disclosure of individuals whose identities are not public.

All employees who access PRS data outside of policy requirements and standard operating procedures will be required to document the reason for their access according to system capabilities. Members are prohibited from accessing PRS data for non-business reasons and

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from sharing the data for non-law enforcement related purposes, including uploading PRS data recorded or maintained by this agency to public and social media websites. Employees seeking access to PRS data for non-business reasons may make a request for it in the same manner as any member of the public.

Field Training Officers may utilize PRS data with trainees for the purpose of providing coaching and feedback on the trainee's performance.

Officers shall not intentionally edit, alter or erase any PRS recording unless otherwise expressly authorized by the Chief or designee.

418.9.2 SUPERVISOR RESPONSIBILITIES

When preparing written reports, members should review their recordings as a resource (See the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance. It is not the intent of the department to review digital evidence for the purpose of general performance review, for routine preparations of performance reports, or to discover policy violations.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15, and in accordance with the Records Maintenance and Release Policy.

At least once per month, supervisors will randomly review PRS usage by each officer to ensure compliance with this policy (Minn. Stat. § 626.8473, Subd 3). Supervisors reviewing event recording should remain focused on the incident or incidents in question and review only those recordings relevant to their investigative scope. If improper conduct is discovered during any review of digital evidence, the Supervisor may take the necessary steps to counsel or initiate an internal affairs investigation in adherence with department policy.

PRS data may be viewed for supervisory or administrative purposes including, but not limited to:

- (a) Any incident where a member of the department is injured or killed during the performance of their duties.
- (b) Any incident involving the use of force by a member of the department so the supervisor can validate the force used was within policy.
- (c) Any in-custody death.

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- (d) Any police pursuit.
- (e) When any member of the department intentionally or unintentionally discharges a firearm at a person regardless of whether an individual is struck.
- (f) Officer involved traffic collision.
- (g) Prior to release of a recording in response to proper legal request (e.g., subpoena or other court order).
- (h) In preparation for a civil deposition or responding to an interrogatory where the incident arises from the employee's official duties.
- (i) For investigations undertaken by the department, for the purpose of proving or disproving specific allegations of misconduct.

418.10 COPYING OF RECORDED DATA

Much of the data saved on the server will not be needed for long term retention and will be automatically purged after a minimal time period or when a determination is made that the data no longer needs to be retained. Other recorded data will require long term retention and/or transfer to another type of media. Copies of recorded data may be made for the following reasons:

- (a) For use as evidence in court.
- (b) For review by prosecuting or defense attorneys.
- (c) For use in investigating complaints against officers.
- (d) To assist officers and investigators in an investigation.
- (e) For officer review prior to a court appearance.
- (f) For long term records archiving.
- (g) For use as authorized training material.
- (h) As part of a data request.
- (i) Other uses as approved by the Chief of Police.

The duplication of recorded data from the server to other media is the responsibility of a person(s) designated by the Chief of Police. Requests for duplicate recorded data should be made in writing and submitted to the person(s) designated by the Chief of Police to duplicate data. The data request should include the reason for the request. After use, all duplicates shall be returned to the designee. The copying of all data will be for official business only and subject to Minnesota Data Practices laws. Exceptions shall be approved by the Chief of Police. Data recorded by the PRS and stored on any media is classified as official government data and subject to Minnesota Data Practices.

418.11 ACCOUNTABILITY

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

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An independent biennial audit will be conducted of the PRS data to determine if the data is appropriately classified, how the data is used, and whether the data is destroyed per Minn, Stat. § 13.82. The results of the audit are 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 (Minn. Stat. § 13.825 Subd. 9).