

**Saint Anthony – Falcon Heights – Lauderdale
Body Cam Work Group**

**Wednesday, February 15, 2017
Lauderdale City Hall Council Chambers
1891 Walnut Street
Lauderdale, MN 55113**

7:00 p.m.

AGENDA

- I. Call to Order by Co-chair Jeff Dains
- II. January 18, 2017 Meeting Notes - attached
- III. January 18, 2017 Meeting Comments/Feedback
- IV. Don Gemberling presentation – MN Statutes attached
- V. Burnsville's Body Cam Policy - attached
- VI. Prepare for Next Meeting
- VII. Adjournment

Next Meeting:

Wednesday, March 15, 2017

7:00 pm

Falcon Heights City Hall

2077 Larpenteur Avenue west

Falcon Heights, MN 55113

Jeff Hansen, BCA presenting

Jeff Hansen has been the Deputy Superintendent of Investigations since December of 2015. Prior to that Jeff was the Special Agent in Charge of the St. Paul Regional Office for 10 years overseeing homicide and officer involved shooting investigations. Jeff has also served as the as a Senior Special Agent in the St. Paul Regional Office and as a Field Agent assigned to narcotics and general investigations. He began his law enforcement career in 1989 as a Treasury Agent for the United States Customs Service.

Jeff graduated Cum Laude in 1989, with a Bachelor of Science Degree in Criminal Justice from Mankato State University, and he is a Certified Forensic Pathology Specialist.

**Saint Anthony – Falcon Heights – Lauderdale
Body Cam Work Group
Wednesday, January 18, 2017
St. Anthony City Hall Council Chambers
3301 Silver Lake Road
St. Anthony, MN 55418
7:00 p.m.**

MEETING NOTES

- I. Call to Order by Co-chair Hal Gray at 7:00 p.m.
- II. Introductions:
 - a. Committee member introductions.
 - b. Guests: Burnsville Police Department; Introductions.
 - c. Burnsville PD began using police body cams in 2010: First MN Dept to use.
- III. Roster of Work Group Members:
 - a. No changes needed to contact info.
- IV. Communications:
 - a. Meeting info will be sent via email to committee members.
 - b. Agendas/meeting notes will be posted to City of St. Anthony website: www.ci.saint-anthony.mn.us
 - c. If contacted by media, please coordinate with your city manager.
- V. Meeting Schedule - Mark Casey
 - a. Possible meeting location change for Feb and March meeting. Location will be in next meeting agenda.
 - b. Experts will be at each meeting to develop base understanding of body cams and to help develop policy
 - c. Summer meetings will be scheduled as needed; dependent on progress made.
 - d. Open meetings, public is welcome, meetings are posted
 - e. 12 members of work group; quorum is 6 people; emails are subject to public review; cautioned to not conduct “serial” conversations.
- VI. Define Purpose & Outcome of Work Group - Hal Gray
 - a. Our purpose: Tri City Body Camera Work Group will review current police policies and protocols, best practices and trends, policy development and present policy recommendations to St. Anthony Chief of Police, City Manager and St. Anthony City Council for officer worn cameras. The work group will be comprised of residents of St. Anthony, Falcon Heights and Lauderdale, staff and City Council liaisons from St. Anthony, Falcon Heights and Lauderdale. (From website: www.ci.saint-anthony.mn.us)
 - b. Department of Justice has received Body Camera Work Group Meeting Schedule.
- VII. Decorum & Expectations - Hal Gray
 - a. Public is welcome to listen, watch process.
- VIII. Current Legislation – Burnsville Police Chief, Eric Gieseke
 - a. State statute regarding police body cameras.

- b. Burnsville PD started with in-squad camera policy and modified for body cam. Policy is “living document” and updated as required.
 - c. Cameras collect a lot of data - some very personal data
 - d. Restricted access to camera data protects citizen privacy
 - e. 2010 - body cameras technology was new; provides documentation of use of force.
 - f. 4 ½ years to full deployment in Burnsville.
 - g. Policy developed must be crystal clear when info can be accessed and by whom - have audit trail (even officer involved watching video of his own actions must document). Need plan and policy in place to restrict access.
 - h. Burnsville requires “use of force” report for anything above escort (Burnsville PD has “Use of Force” Team).
 - i. Burnsville squad car cameras were removed due to duplication with body cameras. Investigating squad camera which syncs with body camera.
 - j. Internal checks/audits to make sure that officers are using body cameras based on number of reports filed.
 - k. Burnsville PD uses cameras for most stops/interactions (e.g. Parking ticket dispute)
- IX. Body Camera Demo – Burnsville Police Department: Sgt. Shaun Anselment
- a. Body cameras are taser based, high def/good audio, on-off button, wide angle lens, relatively inexpensive.
 - b. 12 hour battery, data is stored on camera until docked/uploaded to server at end of shift. Docking also charges camera.
 - c. Burnsville issues i-phones to officers. Use of apps to document calls, e.g. “Citation; with case number.” Can immediately view video on i-phone (video cannot be modified or deleted).
 - d. Most of the cost of body cameras is in storage management: \$60 month per camera; Cloud storage (lesser definition of video saves storage space/cost)
 - e. Each officer is assigned their own body camera, not shared.
 - f. Video cannot be manipulated although clips can be marked. Uploaded video creates own audit trail including IP address of any access.
 - g. Lynn from Burnsville PD: Video is deleted under rare circumstances. Audit trail maintains record that video existed, even if deleted.
 - h. Auto delete occurs on the following schedule: Case files after 7 years, Citations after 3 years, Extraneous after 90 days; automatically deleted but audit trail remains saying that video existed.
 - i. SAPD currently has squad camera, mounted near rear view mirror. Another camera mounted in back seat. Officer wears microphone for audio recording. Officer can slightly adjust direction of camera on dashboard to capture video angle from front of vehicle. Emergency lights and certain speed of squad car activates squad camera.
 - j. When squad or body camera is turned on, it will also show 30 seconds prior to turning camera on, but with no audio.
 - k. Buy-in from officers is needed for body cam success. Most officers realize usefulness of body cams.
 - l. Burnsville PD has Body Camera policy on website.

- m. Downside: Body camera doesn't solve everything. Camera can be shut off accidentally or may be aimed in the wrong direction. Camera doesn't perceive threat as a human being does. In low light, camera picks up more than human eye.
 - n. When developing policy: accountability
 - o. Train officers and staff well
 - p. Recordings can be used for training, debriefing
 - q. Each officer's camera gives different perspectives.
- X. Prepare for Next Meeting
- a. Feb. 15th agenda and location will be emailed out to members of work group.
- XI. Adjourned: 8:36pm

Notes respectfully submitted by Cindy Ridge.

Next Meeting:

Wednesday, February 15, 2017

7:00 pm

Location TBD

Don Gemberling presenting

Don Gemberling began working, professionally, with issues of transparency, governmental accountability, the implications of technology on humans, and data privacy in 1973. For over thirty years he was the only staff or managed functions in the state Department of Administration that involved helping government agencies comply with the Data Practices Act and related law and citizens with exercising their rights under those laws. He is currently on the Board of the Minnesota Coalition on Government Information and is the Board's secretary. He is also MnCOGI's spokesperson and testifies before the legislature. He graduated from Macalester College and William Mitchell College of Law. He is available to answer questions and enjoys training citizens about how to best use transparency and data privacy laws.

13.82 COMPREHENSIVE LAW ENFORCEMENT DATA.

Subdivision 1. **Application.** This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the Bureau of Criminal Apprehension, the Minnesota State Patrol, the Board of Peace Officer Standards and Training, the Department of Commerce, and county human service agency client and provider fraud investigation, prevention, and control units operated or supervised by the Department of Human Services.

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

- (a) time, date and place of the action;
- (b) any resistance encountered by the agency;
- (c) any pursuit engaged in by the agency;
- (d) whether any weapons were used by the agency or other individual;
- (e) the charge, arrest or search warrants, or other legal basis for the action;
- (f) the identities of the agencies, units within the agencies and individual persons taking the action;
- (g) whether and where the individual is being held in custody or is being incarcerated by the agency;
- (h) the date, time and legal basis for any transfer of custody and the identity of the agency or person who received custody;
- (i) the date, time and legal basis for any release from custody or incarceration;
- (j) the name, age, sex and last known address of an adult person or the age and sex of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived of liberty;
- (k) whether the agency employed a portable recording system, automated license plate reader, wiretaps or other eavesdropping techniques, unless the release of this specific data would jeopardize an ongoing investigation;
- (l) the manner in which the agencies received the information that led to the arrest and the names of individuals who supplied the information unless the identities of those individuals qualify for protection under subdivision 17; and
- (m) response or incident report number.

Subd. 3. **Request for service data.** The following data created or collected by law enforcement agencies which document requests by the public for law enforcement services shall be public government data:

- (a) the nature of the request or the activity complained of;
- (b) the name and address of the individual making the request unless the identity of the individual qualifies for protection under subdivision 17;
- (c) the time and date of the request or complaint; and

(d) the response initiated and the response or incident report number.

Subd. 4. Audio recording of 911 call. The audio recording of a call placed to a 911 system for the purpose of requesting service from a law enforcement, fire, or medical agency is private data on individuals with respect to the individual making the call, except that a written transcript of the audio recording is public, unless it reveals the identity of an individual otherwise protected under subdivision 17. A transcript shall be prepared upon request. The person requesting the transcript shall pay the actual cost of transcribing the call, in addition to any other applicable costs provided under section 13.03, subdivision 3. The audio recording may be disseminated to law enforcement agencies for investigative purposes. The audio recording may be used for public safety and emergency medical services training purposes.

Subd. 5. Domestic abuse data. The written police report required by section 629.341, subdivision 4, of an alleged incident described in section 629.341, subdivision 1, and arrest data, request for service data, and response or incident data described in subdivision 2, 3, or 6 that arise out of this type of incident or out of an alleged violation of an order for protection must be released upon request at no cost to the victim of domestic abuse, the victim's attorney, or an organization designated by the Office of Justice Programs in the Department of Public Safety as providing services to victims of domestic abuse. The executive director or the commissioner of the appropriate state agency shall develop written criteria for this designation.

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

- (a) date, time and place of the action;
- (b) agencies, units of agencies and individual agency personnel participating in the action unless the identities of agency personnel qualify for protection under subdivision 17;
- (c) any resistance encountered by the agency;
- (d) any pursuit engaged in by the agency;
- (e) whether any weapons were used by the agency or other individuals;
- (f) a brief factual reconstruction of events associated with the action;
- (g) names and addresses of witnesses to the agency action or the incident unless the identity of any witness qualifies for protection under subdivision 17;
- (h) names and addresses of any victims or casualties unless the identities of those individuals qualify for protection under subdivision 17;
- (i) the name and location of the health care facility to which victims or casualties were taken;
- (j) response or incident report number;
- (k) dates of birth of the parties involved in a traffic accident;
- (l) whether the parties involved were wearing seat belts;
- (m) the alcohol concentration of each driver; and
- (n) whether the agency used a portable recording system to document the agency's response or actions.

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

- (a) a decision by the agency or appropriate prosecutorial authority not to pursue the case;
- (b) expiration of the time to bring a charge or file a complaint under the applicable statute of limitations, or 30 years after the commission of the offense, whichever comes earliest; or
- (c) exhaustion of or expiration of all rights of appeal by a person convicted on the basis of the investigative data.

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

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

Subd. 8. Child abuse identity data. Active or inactive investigative data that identify a victim of child abuse or neglect reported under section 626.556 are private data on individuals. Active or inactive investigative data that identify a reporter of child abuse or neglect under section 626.556 are confidential data on individuals, unless the subject of the report compels disclosure under section 626.556, subdivision 11.

Subd. 9. Inactive child abuse data. Investigative data that become inactive under subdivision 7, clause (a) or (b), and that relate to the alleged abuse or neglect of a child by a person responsible for the child's care, as defined in section 626.556, subdivision 2, are private data.

Subd. 10. Vulnerable adult identity data. Active or inactive investigative data that identify a victim of vulnerable adult maltreatment under section 626.557 are private data on individuals. Active or inactive investigative data that identify a reporter of vulnerable adult maltreatment under section 626.557 are private data on individuals.

Subd. 11. Inactive vulnerable adult maltreatment data. Investigative data that becomes inactive under subdivision 7, paragraph (a) or (b), and that relate to the alleged maltreatment of a vulnerable adult by a caregiver or facility are private data on individuals.

Subd. 12. Name change data. Data on court records relating to name changes under section 259.10, subdivision 2, which is held by a law enforcement agency is confidential data on an individual while an investigation is active and is private data on an individual when the investigation becomes inactive.

Subd. 13. **Access to data for crime victims.** On receipt of a written request, the prosecuting authority shall release investigative data collected by a law enforcement agency to the victim of a criminal act or alleged criminal act or to the victim's legal representative unless the release to the individual subject of the data would be prohibited under section 13.821 or the prosecuting authority reasonably believes:

- (a) that the release of that data will interfere with the investigation; or
- (b) that the request is prompted by a desire on the part of the requester to engage in unlawful activities.

Subd. 14. **Withholding public data.** A law enforcement agency may temporarily withhold response or incident data from public access if the agency reasonably believes that public access would be likely to endanger the physical safety of an individual or cause a perpetrator to flee, evade detection or destroy evidence. In such instances, the agency shall, upon the request of any person, provide a statement which explains the necessity for its action. Any person may apply to a district court for an order requiring the agency to release the data being withheld. If the court determines that the agency's action is not reasonable, it shall order the release of the data and may award costs and attorney's fees to the person who sought the order. The data in dispute shall be examined by the court in camera.

Subd. 15. **Public benefit data.** Any law enforcement agency may make any data classified as confidential or protected nonpublic pursuant to subdivision 7 or as private or nonpublic under section 13.825 accessible to any person, agency, or the public if the agency determines that the access will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest.

Subd. 16. **Public access.** When data is classified as public under this section, a law enforcement agency shall not be required to make the actual physical data available to the public if it is not administratively feasible to segregate the public data from the not public. However, the agency must make the information described as public data available to the public in a reasonable manner. When investigative data becomes inactive, as described in subdivision 7, the actual physical data associated with that investigation, including the public data, shall be available for public access.

Subd. 17. **Protection of identities.** A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency shall withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

- (a) when access to the data would reveal the identity of an undercover law enforcement officer, as provided in section 13.43, subdivision 5;
- (b) when access to the data would reveal the identity of a victim or alleged victim of criminal sexual conduct or sex trafficking under section 609.322, 609.341 to 609.3451, or 617.246, subdivision 2;
- (c) when access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant;
- (d) when access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, unless the agency reasonably determines that revealing the identity of the victim or witness would not threaten the personal safety or property of the individual;
- (e) when access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred;

(f) when access to the data would reveal the identity of a person who placed a call to a 911 system or the identity or telephone number of a service subscriber whose phone is used to place a call to the 911 system and: (1) the agency determines that revealing the identity may threaten the personal safety or property of any person; or (2) the object of the call is to receive help in a mental health emergency. For the purposes of this paragraph, a voice recording of a call placed to the 911 system is deemed to reveal the identity of the caller;

(g) when access to the data would reveal the identity of a juvenile witness and the agency reasonably determines that the subject matter of the investigation justifies protecting the identity of the witness; or

(h) when access to the data would reveal the identity of a mandated reporter under section 609.456, 626.556, or 626.557.

Data concerning individuals whose identities are protected by this subdivision are private data about those individuals. Law enforcement agencies shall establish procedures to acquire the data and make the decisions necessary to protect the identity of individuals described in clauses (c), (d), (f), and (g).

Subd. 18. **Data retention.** Nothing in this section shall require law enforcement agencies to create, collect or maintain data which is not required to be created, collected or maintained by any other applicable rule or statute.

Subd. 19. **Data in arrest warrant indices.** Data in arrest warrant indices are classified as confidential data until the defendant has been taken into custody, served with a warrant, or appears before the court, except when the law enforcement agency determines that the public purpose is served by making the information public.

Subd. 20. **Property data.** Data that uniquely describe stolen, lost, confiscated, or recovered property are classified as either private data on individuals or nonpublic data depending on the content of the not public data.

Subd. 21. **Reward program data.** To the extent that the release of program data would reveal the identity of an informant or adversely affect the integrity of the fund, financial records of a program that pays rewards to informants are protected nonpublic data in the case of data not on individuals or confidential data in the case of data on individuals.

Subd. 22. **Data on registered criminal offenders.** Data described in section 243.166 shall be classified as described in that section.

Subd. 23. **Data in missing children bulletins.** Data described in section 299C.54 shall be classified as described in that section.

Subd. 24. **Exchanges of information.** Nothing in this chapter prohibits the exchange of information by law enforcement agencies provided the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation, except not public personnel data and data governed by section 13.045.

Subd. 25. **Deliberative processes.** Data that reflect deliberative processes or investigative techniques of law enforcement agencies are confidential data on individuals or protected nonpublic data; provided that information, reports, or memoranda that have been adopted as the final opinion or justification for a decision of a law enforcement agency are public data.

Subd. 26. **Booking photographs.** (a) For purposes of this subdivision, "booking photograph" means a photograph or electronically produced image taken by law enforcement for identification purposes in connection with the arrest of a person.

(b) Except as otherwise provided in this subdivision, a booking photograph is public data. A law enforcement agency may temporarily withhold access to a booking photograph if the agency determines that access will adversely affect an active investigation.

Subd. 27. **Pawnshop and scrap metal dealer data.** Data that would reveal the identity of persons who are customers of a licensed pawnbroker, secondhand goods dealer, or a scrap metal dealer are private data on individuals. Data describing the property in a regulated transaction with a licensed pawnbroker, secondhand goods dealer, or a scrap metal dealer are public.

Subd. 28. **Disclosure of predatory offender registrant status.** Law enforcement agency disclosure to health facilities of the registrant status of a registered predatory offender is governed by section 244.052.

Subd. 29. **Juvenile offender photographs.** Notwithstanding section 260B.171, chapter 609A, or other law to the contrary, photographs or electronically produced images of children adjudicated delinquent under chapter 260B shall not be expunged from law enforcement records or databases.

Subd. 30. **Inactive financial transaction investigative data.** Investigative data that become inactive under subdivision 7 that are a person's financial account number or transaction numbers are private or nonpublic data.

Subd. 31. **Use of surveillance technology.** Notwithstanding subdivision 25 and section 13.37, subdivision 2, the existence of all technology maintained by a law enforcement agency that may be used to electronically capture an audio, video, photographic, or other record of the activities of the general public, or of an individual or group of individuals, for purposes of conducting an investigation, responding to an incident or request for service, monitoring or maintaining public order and safety, or engaging in any other law enforcement function authorized by law is public data.

History: 1979 c 328 s 21; 1981 c 311 s 36,39; 1982 c 545 s 24; 1982 c 558 s 1; 1984 c 552 s 2; 1985 c 298 s 30-36; 1986 c 444; 1988 c 625 s 1; 1989 c 177 s 1; 1989 c 351 s 12,13; 1990 c 402 s 1; 1991 c 285 s 1,2; 1991 c 319 s 9,10; 1993 c 351 s 16-18; 1994 c 618 art 1 s 14,15; 1994 c 636 art 4 s 3; 1995 c 229 art 3 s 1-3; 1995 c 231 art 2 s 2; 1995 c 259 art 1 s 19-23; art 4 s 3; 1996 c 440 art 1 s 16,17; 1997 c 85 art 5 s 1; 1998 c 371 s 4; 1999 c 227 s 22; 2000 c 445 art 2 s 1; 2002 c 352 s 7; 2004 c 269 art 1 s 1; 2004 c 290 s 16; 2005 c 136 art 3 s 1; 2005 c 163 s 49,50; 2006 c 260 art 3 s 2; 2007 c 54 art 7 s 1; 2012 c 216 art 15 s 4; 2012 c 290 s 54-58; 2013 c 76 s 7; 2013 c 125 art 1 s 2; 2014 c 212 art 1 s 1; 2015 c 65 art 6 s 2; 2015 c 67 s 1,2; 2016 c 171 s 1-4

626.8473 PORTABLE RECORDING SYSTEMS ADOPTION; WRITTEN POLICY REQUIRED.

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

Subd. 2. **Public comment.** A local law enforcement agency must provide an opportunity for public comment before it purchases or implements a portable recording system. At a minimum, the agency must accept public comments submitted electronically or by mail, and the governing body with jurisdiction over the budget of the law enforcement agency must provide an opportunity for public comment at a regularly scheduled meeting.

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

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

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

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

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

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

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

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

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

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

History: 2016 c 171 s 6

NOTE: This section, as added by Laws 2016, chapter 171, section 6, is effective August 1, 2016, provided that a law enforcement agency using a portable recording system on that date must adopt the policy required under this section no later than January 15, 2017. Laws 2016, chapter 171, section 6, the effective date.

Portable Audio/Video Recorders

800.1 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 Burnsville Police Department facility, undercover operations, wiretaps or eavesdropping (concealed listening devices) unless captured by a portable recording system.

800.1.1 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.

800.2 POLICY

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

800.2.1 MOBILE VIDEO RECORDER OBJECTIVES

The Burnsville Police Department has adopted the use of portable audio/video recorders to accomplish the following objectives:

- (a) To enhance officer safety.
- (b) To document statements and events during the course of an incident.
- (c) To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
- (d) To preserve audio and visual information for use in current and future investigations.
- (e) To provide a tool for self-critique and field evaluation during officer training.
- (f) To enhance the public trust by preserving factual representations of officer-citizen interactions in the form of audio-video recordings.
- (g) To assist with the defense of civil actions against law enforcement officers and the City of Burnsville.
- (h) To assist with the training and evaluation of officers.

Burnsville Police Department

Policy Manual

Portable Audio/Video Recorders

800.3 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.

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

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

800.3.1 SPARE DEVICES

When using a spare device, or one that is not assigned to the member, it is the member's responsibility to notify the watch commander of the reason they are unable to use their issued equipment. In addition, it is the member's responsibility to notify the Records Supervisor to ensure the evidence that was recorded on that device can be reassigned to the recording member in evidence.com.

800.4 SUPERVISOR RESPONSIBILITIES

Supervisors shall ensure officers are using their portable audio/video recorders per policy.

Supervisors should determine corrective action for non-functioning portable audio/video recorders.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, peace officer-involved shootings, department-involved collisions), a supervisor shall ensure that the portable audio/video recorders are properly uploaded.

800.5 ADMINISTRATOR RESPONSIBILITIES

The portable audio/video recorder administrator (designated personnel authorized by the Chief of Police) are responsible for deleting media:

Burnsville Police Department

Policy Manual

Portable Audio/Video Recorders

- (a) Pursuant to a court order.
- (b) In accordance with established records retention policies, including reissuing all other media deemed to be of no evidentiary value.
- (c) In instances where privacy issues are noted.
- (d) Ordering, issuing, retrieving and storing all portable audio/video recorders.
- (e) Logs reflecting portable audio/video recorder assignments, serial number, the date it was issued, and the officer to which it was issued.

800.6 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.
 - 1. The coordinator (Services Manager) should work with the Custodian of Records (Records Supervisor) 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.
 - 1. These procedures should include the process to obtain written authorization for access to non-public data by BPD members and members of other governmental entities and agencies.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.
- (e) Establishing an inventory of portable recorders including:
 - 1. Total number of devices owned or maintained by the Burnsville 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 Burnsville 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 Burnsville Police Department that expands the type or scope of surveillance capabilities of the department's portable recorders.

800.7 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

Burnsville Police Department

Policy Manual

Portable Audio/Video Recorders

the recorder any time the member believes it would be appropriate or valuable to record an incident.

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

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

800.7.1 CESSATION OF RECORDING

Once activated, the portable recorder should usually remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation.

Recording may be temporarily ceased or the audio muted to exchange information with other officers, legal counsel, or the lens obstructed in order to avoid capturing images of undercover officers, informants, or citizens where based on training and experience, in the judgement of the officer a recording would not be appropriate or consistent with this policy. The reason to cease and resume recording (or to mute audio or obstruct the lens) will be noted by the officer either verbally on the portable audio/video recorder or in a written report.

Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Formal statements recorded on portable audio/video recorders shall be recorded as separate recordings. Recordings shall be categorized, titled and Id'd in accordance with established policies and procedures.

800.7.2 WHEN ACTIVATION IS NOT REQUIRED

Activation of the portable audio/video recorder system is not required:

- (a) During encounters with undercover officers or informants.

Burnsville Police Department

Policy Manual

Portable Audio/Video Recorders

- (b) When an officer is on break or is otherwise engaged in personal activities.
- (c) In any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room or break room.
- (d) When not in service or actively on patrol.

800.7.3 SURREPTITIOUS RECORDINGS

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

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

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

800.8 REVIEW OF RECORDED MEDIA FILES

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

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

Recorded files may also be reviewed:

- (a) 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.

Members shall document in the Post Note field of Evidence.com the purpose for accessing any recorded file. This documentation is to clarify the reason for viewing the recording when developing the audit trail.

All recordings should be reviewed by the Custodian of Records (Records Supervisor) 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).

Portable Audio/Video Recorders

800.9 RECORDING MEDIA STORAGE AND INTEGRITY

At the end of their shift, officers shall place the portable audio/video recorder into the docking station. This will allow the data to be transferred from the audio/video recorder through the docking station to Evidence.com. The data is considered impounded at this point and the portable audio/video recorder is cleared of existing data. The portable audio/video recorder should not be removed from the docking station until the data has been uploaded and the battery has been fully recharged.

800.9.1 COPIES OF RECORDING MEDIA

Evidentiary copies of digital recordings will be accessed and copied from Evidence.com for official law enforcement purposes only. Access rights may be given to the Dakota County Attorney, the Burnsville City Attorney, or other prosecutorial agencies associated with any future prosecution arising from an incident in which the portable audio/video recorder was utilized.

Officers shall ensure relevant recordings are preserved. Officers or portable audio/video recorder administrators may prevent automatic deletion by changing the category of the media at any time prior to deletion.

800.10 SYSTEM OPERATIONAL STANDARDS

- (a) Portable audio/video recorder system use should be based on officer safety requirements and device manufacturer recommendations.
- (b) The portable audio/video recorder system should be configured to minimally buffer for 30 seconds prior to activation.
- (c) For each digital recording, officers shall select the proper category . Members shall enter the 8-digit case file number or the full citation number and descriptive title. The title should clearly describe the nature of the recording. For example:
 - 1. Initial Contact (if use of force was used, add UOF)
 - 2. Booking
 - 3. Transport (if The Wrap was used, add Wrap)
 - 4. Impound
 - 5. Narr (narrative report)
 - 6. IC Jane Doe (implied consent)
 - 7. SS John Doe (suspect statement)
 - 8. VS Jane Doe (victim statement)
 - 9. WS Jane Doe (witness statement)
 - 10. Telephone Call with John Doe
- (d) Digital recordings shall be retained according to the Department's retention schedule or as required by the rules of evidence, unless a specific request is made to store them for a longer period of time by an authorized person.

Burnsville Police Department

Policy Manual

Portable Audio/Video Recorders

- (e) Members shall not attempt to delete, alter, reuse, modify or tamper with portable audio/video recorder systems or recordings.

800.11 CLASSIFICATION OF MVR DATA

Nothing in this policy shall be interpreted as changing the underlying classification of data collected by portable audio/video recorder systems. The classification of data collected by portable audio/video recorder systems will need to be determined on a case-by-case basis upon application and interpretation of the MGDPA and other laws.

800.12 PROHIBITED USE OF AUDIO/VIDEO RECORDERS

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

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. 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.

800.13 RETENTION OF RECORDINGS

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

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

800.13.1 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.

800.13.2 ACCESS TO RECORDINGS

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

Burnsville Police Department

Policy Manual

Portable Audio/Video Recorders

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.

800.14 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).

800.15 SANCTIONS FOR MISUSE OF RECORDED MEDIA

Any member misusing recorded media for other than official law enforcement purposes will be subject to disciplinary action.

The Chief of Police, or designee, shall meet with the person who is alleged to have violated the policy and determine appropriate sanctions, which may include any or all of the standard discipline policies currently in place at the Burnsville Police Department including verbal reprimand, written reprimand, suspension or termination. Intentional misuse of recorded media is a serious violation. If criminal behavior is believed to have occurred, appropriate agencies will be notified for further investigation.

The specific situation in each case of misuse of recorded media will be looked at with all circumstances considered when determining disciplinary actions. Consideration will be given to the extent of the loss or injury to the system, agency, or other person upon release or disclosure of sensitive or classified information to an unauthorized individual.

800.16 TRAINING

Users of the MVR systems and supervisors shall successfully complete an approved course of instruction prior to being deployed. This training shall be documented by the Staff Sergeant.