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.
**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:
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(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
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.
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(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).
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.
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(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.
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.