

Portable Audio/Video Recorders

426.1 PURPOSE AND SCOPE

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

This policy does not apply to mobile audio/video recordings, interviews, or interrogations conducted at any Cambridge Police Department facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices).

426.2 POLICY

It is the policy of the Cambridge Police Department to authorize and require the use of department-issued BWC's as set forth by Minnesota Statute 626.8473, subd. 3 and to administer BWC data as provided by law.

426.3 SCOPE

This policy governs the use of BWC's in the course of official duties. It does not apply to the use of surreptitious recording devices in undercover operations or the use of squad-based (dash-cam) video recorders. The Chief of Police or designee, may supersede this policy by providing specific instructions for the use of BWC to individual officers, or providing specific instructions for the use of BWC pertaining to certain events or classes of events, including but not limited to political rallies and demonstrations. The Chief of Police or designee, may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

426.4 DEFINITIONS

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

A. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.

B. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.

C. **Body Worn Cameras** are camera systems as defined in M.S. 13.825, subd. 1(b)(1) as a device worn by police department personnel that is capable of video and audio recording of the officer's activities and interactions with others or collecting digital multimedia evidence as part of an investigation.

Cambridge Police Department

Cambridge PD Policy Manual

Portable Audio/Video Recorders

D. Law Enforcement-related information means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation or charging decision.

E. Evidentiary value means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer. Note: Related civil or administrative proceeding” refers, for example, to implied consent or forfeiture actions arising from an arrest or prosecution. Nothing in this policy obligates the department to collect or maintain BWC data solely for use in third-party tort litigation.

F. General Citizen Contact means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

G. Adversarial means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.

H. Unintentionally recorded footage is a video recording that result from an officer’s inadvertence or neglect in operating the officer’s BWC, provided that no portion of the resulting recording has evidentiary or administrative value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.

I. Official duties, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this department or while in uniform.

J. Critical Incident: An incident involving any of the following situations occurring in the line of duty:

- The use of Deadly Force by or against a Cambridge Police Officer;
- Death or Great Bodily Harm to an Officer;
- Death or Great Bodily Harm to a person who is in the custody or control of an Officer;
- Any action by an Officer that causes or is intended to cause Death or Great Bodily Harm

426.5 MOBILE VIDEO RECORDER OBJECTIVES

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

Portable Audio/Video Recorders

- 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 Cambridge.
- h. To assist with the training and evaluation of officers

426.6 MEMBER RESPONSIBILITIES

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

Officers who are assigned a portable recording system are mandated to wear and operate the system in compliance with this policy while performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement official (Minn. Stat. § 626.8473, Subd. 3(b)(3)).

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

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

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

Portable Audio/Video Recorders

426.7 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.

426.8 ADMINISTRATOR RESPONSIBILITIES

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

- 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.

426.9 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 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).
 2. The coordinator should work with the Custodian of Records to identify recordings that must be retained for a specific time frame under Minnesota law (e.g., firearm discharges, certain use of force incidents, formal complaints).
- (b) Establishing procedures for accessing data and recordings.
 1. These procedures should include the process to obtain written authorization for access to non-public data by CPD members and members of other governmental entities and agencies.
- (c) Establishing procedures for logging or auditing access.

Cambridge Police Department

Cambridge PD Policy Manual

Portable Audio/Video Recorders

- (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 Cambridge 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 Cambridge 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 Cambridge Police Department that expands the type or scope of surveillance capabilities of the department's portable recorders.
- (h) Ensuring that this Portable Audio/Video Recorders Policy is posted on the Department website.

426.10 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 the Dispatch 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.

Portable Audio/Video Recorders

426.10.1 CESSATION OF RECORDING

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

Recording may be 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 identified in accordance with established policies and procedures.

426.10.3 WHEN ACTIVATION IS NOT REQUIRED

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

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

426.10.3 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.

426.11 REVIEW OF RECORDED MEDIA FILES

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

Cambridge Police Department

Cambridge PD Policy Manual

Portable Audio/Video Recorders

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) By a supervisor as part of internal audits and reviews as required by Minn. Stat. § 626.8473.
- (b) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation, or criminal investigation.
- (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (d) By media personnel with permission of the Chief of Police or the authorized designee.
- (e) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the 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).

426.12 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. 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.

426.12.1 COPIES OF RECORDING MEDIA

Evidentiary copies of the digital recordings will be accessed and copied for official law enforcement purposes only. Access rights may be given to the Isanti County Attorney, the Cambridge 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.

426.13 IDENTIFICATION AND PRESERVATION OF RECORDINGS

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

Cambridge Police Department

Cambridge PD Policy Manual

Portable Audio/Video Recorders

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

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

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

426.14 SYSTEM OPERATIONAL STANDARDS

a. Portable audio/video recorder system use should be based on officer safety requirements and device 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 and descriptive title. The title should clearly describe the nature of the recording. For example:

1. Arrest (For all arrests or incidents where an arrest would be made if the suspect is located).
2. Warrant Arrest (Whenever an arrest is made for a warrant and there will be no local criminal charges).
3. Citation (All state and Administrative citations).
4. Traffic Stop (Traffic Stops that result in a warning only).
5. All Other (Incidents that do not fall into any of the other categories. i.e. transports, disturbances, suspicious activity, public assist, etc).
6. Use of Force (Any incident where force is used and where the person whom force is used on is not arrested or issued a citation).
7. Test Recording (A recording shall be created at the beginning of each shift to ensure that the camera is working).

Portable Audio/Video Recorders

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.

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

426.15 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.

426.16 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.

426.17 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 Shift 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.

426.18 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.

Portable Audio/Video Recorders

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

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

426.18.1 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.

426.18.2 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.

426.19 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).

426.20 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 Cambridge 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.

Cambridge Police Department

Cambridge PD Policy Manual

Portable Audio/Video Recorders

426.21 TRAINING

Users of the audio/video recording system shall successfully complete an approved course of instruction prior to being deployed. This training shall be documented in the employee's training file.