

INDEPENDENT AUDIT REPORT

Chief Corky McQuiston
Brainerd Police Department
225 E. River Rd.
Brainerd, MN 56401

Dear Chief McQuiston:

An independent audit of the Brainerd Police Department's Portable Recording System (PRS) was conducted on October 16, 2020. The objective of the audit was to verify Brainerd Police Department's compliance with Minnesota Statutes §§13.825 and 626.8473.

Data elements the audit includes:

Minnesota Statute §13.825

- Data Classification
- Retention of Data
- Access by Data Subjects
- Inventory of Portable Recording System Technology
- Use of Agency-Issued Portable Recording Systems
- Authorization to Access Data
- Sharing Among Agencies

Minnesota Statute §626.8473

- Public Comment
- Body-worn Camera Policy

The Brainerd Police Department is located in Crow Wing County, Minnesota and employs twenty-one (21) peace officers. The Brainerd Police Department utilizes Axon body-worn cameras and Evidence.com cloud-based evidence management storage. The audit covers the period November 14, 2018, through October 16, 2020.

Audit Requirement: Data Classification

Determine that the data collected by PRSs are appropriately classified.

Brainerd Police Department PRS data is presumptively private. A report produced from Evidence.com for all PRS data collected during the time period November 15, 2018, through October 16, 2020, was created. All data collected during the specified time period is classified as private or non-public data. The Brainerd Police Department had no incidents of the discharge of a firearm by a peace officer, use of force that resulted in substantial bodily harm, requests from data subjects for the data to be made accessible to the public, or court orders directing the agency to release the PRS data to the public.

No discrepancies noted.

Audit Requirement: Retention of Data

Determine that the data collected by PRS's are appropriately retained and destroyed in accordance with statutes.

The Brainerd Police Department utilizes the General Records Retention Schedule for Minnesota Cities and agency specified retention periods in Evidence.com. At the conclusion of a PRS recording, officers assign meta data, including an Evidence.com category, to the recording. Each Evidence.com category has an associated retention period. Upon reaching its retention date, evidence is systematically deleted. Deletion of the data is captured in the audit trail.

Randomly selected records from the Evidence Created Report were reviewed, and the date and time the data was created was verified against the deletion date. Each of the records were deleted or maintained in accordance with the record retention. Randomly selected records were verified against audit trail reports, and each record was deleted or maintained in accordance with the record retention. Records selected were from the time period November 15, 2018, through October 16, 2020. The Brainerd Police Department had received no requests from data subjects to retain PRS data beyond the applicable retention period.

The agency Sergeants monitor PRS data for proper categorization to ensure PRS data are appropriately retained and destroyed.

No discrepancies noted.

Audit Requirement: Access by Data Subjects

Determine that individuals who are the subject of collected data have access to the data, and if the data subject requests a copy of the data, other individuals who do not consent to its release must be redacted.

PRS data is available and access may be requested by submission of a City of Brainerd Police Department Data Request Form. During the time period November 15, 2018, through October 16, 2020, the Brainerd Police Department had received neither requests to view PRS data nor requests for copies of PRS video from data subjects.

No discrepancies noted.

Audit Requirement: Inventory of Portable Recording System Technology

Determine the total number of recording devices owned and maintained by the agency; a daily record of the total number of recording devices actually deployed and used by officers, the policies and procedures for use of portable recording systems by required by section 626.8473; and the total amount of recorded audio and video collected by the portable recording system and

maintained by the agency, the agency's retention schedule for the data, the agency's procedures for destruction of the data, and that the data are available to the public.

Brainerd Police Department's PRS inventory consists of 26 devices. An inventory search in Evidence.com on October 16, 2020, detailed the number of recording devices owned and maintained by the agency. The inventory included the device model, serial number, device name, and officer assigned to the device.

The Brainerd Police Department has established and enforces a PRS policy that governs the use of portable recording systems by peace officers while in the performance of their duties. The Department's PRS policy requires officers to conduct a function test of their PRS at the beginning of each shift and to report any failure to his/her supervisor.

During implementation of the PRS program, peace officers were trained on the use of the portable recording system by an Axon trainer. New officers are trained as part of their field training program.

A review of randomly selected dates from the patrol schedule were verified against the Evidence.com Evidence Created Report and confirmed that officers are wearing and activating their PRSs. A review of the total number of PRS videos created per quarter and a comparison to calls for service shows a consistent collection of PRS data.

Evidence.com queries detail the total amount of PRS data created, stored/maintained, and deleted. The Brainerd Police Department utilizes the General Records Retention Schedule for Minnesota Cities and agency specified retention periods in Evidence.com. PRS video is fully deleted from Evidence.com upon reaching its scheduled deletion date. Meta data and audit trails are maintained in Evidence.com after deletion of PRS audio and video.

PRS data is available upon request, and access may be requested by submission of a City of Brainerd Police Department Data Request Form.

No discrepancies noted.

Audit Requirement: Use of Agency-Issued Portable Recording Systems

Determine if peace officers are only allowed to use portable recording systems issued and maintained by the officer's agency.

The Brainerd Police Department's PRS policy states that peace officers are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Sergeant.

No discrepancies noted.

Audit Requirement: Authorization to Access Data

Determine if the agency complies with sections 13.05, Subd. 5, and 13.055 in the operation of portable recording systems and in maintaining portable recording system data.

Sergeants conduct quarterly random reviews of PRS data to ensure categorization accuracy. Sergeants report their findings to the Chief of Police.

User access to PRS data is managed by the assignment of roles and permissions in Evidence.com. Permissions are based on staff work assignments. Roles and Permissions are administered by the Chief of Police and Lieutenant and permissions are based on staff work assignments. Access to Evidence.com is password protected and requires dual authentication.

The agency's PRS and Records Maintenance and Release policies governs access to and sharing of data. User access to PRS data is captured in the audit trail.

The Brainerd Police Department has had no security breaches, and the most recent BCA CJIS security audit was conducted in April of 2019.

When PRS data is deleted from Evidence.com, its contents cannot be determined.

No discrepancies noted.

Audit Requirement: Sharing Among Agencies

Determine if nonpublic PRS data is shared with other law enforcement agencies, government entities, or federal agencies.

The Brainerd Police Department's PRS policy prohibits the distribution of PRS data except for authorized legitimate department business purposes. Agencies requesting access submit a written request and data is shared via an Evidence.com secure link. Secure electronic sharing of data within Evidence.com is captured in the audit trail. An Evidence.com Sharing Audit Report and the Records Management System dissemination log document the sharing of data.

No discrepancies noted.

Audit Requirement: Biennial Audit

Determine if the agency maintains records showing the date and time the portable recording system data were collected, the applicable classification of the data, how the data are used, and whether data are destroyed as required.

Evidence.com and the Evidence.com Evidence Created Report document the date and time portable recording system data were collected and deleted per retention. All PRS data collected from the time period November 15, 2018, through October 16, 2020, is classified as private or non-public data. The Evidence.com audit trail and Sharing Audit Report document how the data are used. The audit trail is maintained in Evidence.com after deletion of video. The

Evidence.com audit trail documents each and every action taken from the creation of the recording to its deletion, as well as access to the audit trail after PRS has been deleted.

No discrepancies noted.

Audit Requirement: Portable Recording System Vendor

Determine if portable recording system data stored in the cloud, is stored in accordance with security requirements of the United States Federal Bureau of Investigation Criminal Justice Information Services Division Security Policy 5.4 or its successor version.

An Axon CJIS Compliance White paper outlines the specific security policies and practices for Evidence.com and how they are compliant with the CJIS Security Policy. Axon has signed the CJIS Security Addendum in all states and has performed statewide CJIS-related vendor requirements in Minnesota. Axon has incorporated the CJIS Security Addendum by reference into the Axon Master Services and Purchase Agreement. Axon maintains signed CJIS Security Addendum certification pages for Axon personnel. Authorized Axon personnel are required to complete Level 4 CJIS Security Training upon assignment and biennially thereafter.

No discrepancies noted.

Audit Requirement: Public Comment

Determine if the law enforcement agency provided an opportunity for public comment before it purchased or implemented a portable recording system and if the governing body with jurisdiction over the budget of the law enforcement agency provided an opportunity for public comment at a regularly scheduled meeting.

The Brainerd Police Department solicited for public comment on the purchase, implementation, and proposed policy of a PRS system. The Brainerd City Council held a public hearing at their September 5, 2017, meeting.

No discrepancies noted.

Audit Requirement: Body-worn Camera Policy

Determine if a written policy governing the use of portable recording systems has been established and is enforced.

The Brainerd Police Department has established and enforces a PRS policy. The policy was compared to the requirements of Minn. Stat. § 626.8473. The agency's policy includes all minimum requirements of Minn. Stat. § 626.8473, Subd. 3. with the exception of supervisory or internal audits and reviews. The PRS policy is posted on the agency's website.

Discrepancy noted.

This report was prepared exclusively for the City of Brainerd and Brainerd Police Department by Lynn Lembcke Consulting. The findings in this report are impartial and based on information and documentation provided and examined.

Dated: December 18, 2020

Lynn Lembcke Consulting

A handwritten signature in blue ink that reads "Lynn Lembcke". The signature is written in a cursive style with a large initial "L".

Lynn Lembcke