

State of Minnesota



**Office of the State Auditor**

Julie Blaha  
State Auditor

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**City of Burnsville Police Department  
Burnsville, Minnesota**

Agreed-Upon Procedures

December 16, 2020

## **Description of the Office of the State Auditor**

The mission of the Office of the State Auditor is to oversee local government finances for Minnesota taxpayers by helping to ensure financial integrity and accountability in local governmental financial activities.

Through financial, compliance, and special audits, the State Auditor oversees and ensures that local government funds are used for the purposes intended by law and that local governments hold themselves to the highest standards of financial accountability.

The State Auditor performs approximately 100 financial and compliance audits per year and has oversight responsibilities for over 3,300 local units of government throughout the state. The office currently maintains five divisions:

**Audit Practice** – conducts financial and legal compliance audits of local governments;

**Government Information** – collects and analyzes financial information for cities, towns, counties, and special districts;

**Legal/Special Investigations** – provides legal analysis and counsel to the Office and responds to outside inquiries about Minnesota local government law; as well as investigates allegations of misfeasance, malfeasance, and nonfeasance in local government;

**Pension** – monitors investment, financial, and actuarial reporting for Minnesota’s local public pension funds; and

**Tax Increment Financing** – promotes compliance and accountability in local governments’ use of tax increment financing through financial and compliance audits.

The State Auditor serves on the State Executive Council, State Board of Investment, Land Exchange Board, Public Employees Retirement Association Board, Minnesota Housing Finance Agency, and the Rural Finance Authority Board.

Office of the State Auditor  
525 Park Street, Suite 500  
Saint Paul, Minnesota 55103  
(651) 296-2551  
state.auditor@osa.state.mn.us  
www.auditor.state.mn.us

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**Audit Practice Division  
Office of the State Auditor  
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# STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

SUITE 500  
525 PARK STREET  
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)  
(651) 296-4755 (Fax)  
state.auditor@osa.state.mn.us (E-mail)  
1-800-627-3529 (Relay Service)

## INDEPENDENT AUDITOR'S REPORT ON APPLYING AGREED-UPON PROCEDURES

Tanya Schwartz, Chief of Police  
City of Burnsville Police Department  
100 Civic Center Parkway  
Burnsville, Minnesota 55337

We have performed the procedures enumerated below, which were agreed to by the Police Department of the City of Burnsville, Minnesota, to confirm the Burnsville Police Department's compliance with Minn. Stat. §§ 13.825 and 626.8473 regarding Body Worn Cameras (BWCs). Specifically, the agreed-upon procedures used herein were designed to determine whether data currently in the Department's records are classified properly; how the data are used; whether data are being destroyed as required by Minn. Stat. § 13.825; and to determine whether there is compliance with Minn. Stat. § 13.825, subs. 7 and 8. The Burnsville Police Department's management is responsible for the Department's compliance with Minn. Stat. §§ 13.825 and 626.8473 regarding BWCs. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the Burnsville Police Department. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

### 1. Procedure

Determine that a written policy governing BWC use that is in accordance with Minn. Stat. § 626.8473 is maintained.

### Findings

We obtained from the Burnsville Police Department a copy of its Portable Recorders policy, which includes BWCs (hereinafter BWC policy), and compared it to the requirements of Minn. Stat. § 626.8473. Minnesota Statutes, section 626.8473, subdivision 3(b)(5), requires the policy to document circumstances under which a data subject must be given notice of a recording. The Department's BWC policy does not make

mention of circumstances when a data subject must be given notice of a recording. The policy states that officers have no affirmative duty to inform people they are being recorded. All other requirements of this statute are reflected in the Department's BWC policy.

## 2. Procedure

Determine that access and sharing of the data collected by BWCs is in accordance with statutes.

### Findings

The Burnsville Police Department uses Axon's Evidence.com system, which is a cloud-based digital evidence system for BWC data storage, management, review, and sharing. A report was run on October 14, 2020, from Evidence.com for all of the BWC data collected by the Department between October 1, 2018, and September 30, 2020. A sample of 25 videos was haphazardly selected and compared with the Audit Trail in Evidence.com to confirm that data was accessed only for a legitimate law enforcement purpose and by persons whose work assignment reasonably requires access to the data. No exceptions were found.

Minnesota Statutes, section 13.825, subdivision 7(b), requires written procedures to ensure that law enforcement personnel have access to BWC data that are not public "only if authorized in writing by the chief of police, sheriff, or head of the law enforcement agency, or their designee, to obtain access to the data for a legitimate, specified law enforcement purpose." The Department's BWC policy states that all police department members may access the BWC data for legitimate, specified law enforcement purposes and designates the Services Manager as the Police Chief's designee to establish procedures for accessing the data and recordings. However, no written procedures regarding the process to obtain written authorization for access to nonpublic portable recording system data have been established. The Burnsville Police Department did not have written authorization for any members of the Department and members of other governmental entities and agencies to access nonpublic data.

A report was run on October 14, 2020, from Evidence.com for all BWC recordings shared among other agencies between October 1, 2018, and September 30, 2020. A sample of 25 videos was haphazardly selected and compared with the Audit Trail in Evidence.com to confirm that all data shared with other agencies was in compliance with Minn. Stat. § 13.825, subd. 8. No exceptions were found.

3. Procedure

Determine that the data collected by BWCs are appropriately classified.

Findings

A report was run on October 14, 2020, from Evidence.com for all of the BWC data collected by the Burnsville Police Department between October 1, 2018, and September 30, 2020. All data was considered nonpublic, unless noted as public. A sample of two videos was haphazardly selected from those deemed public data and compared to the Audit Trail in Evidence.com to confirm that this data met the requirements of Minn. Stat. § 13.825, subd. 2(a)(1). No exceptions were found.

4. Procedure

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

Findings

Minnesota Statutes, section 13.825, subdivision 3(a), requires BWC data that are not active or inactive criminal investigative data and not subject to Minn. Stat. § 13.825, subd. 3(b), must be maintained for at least 90 days and destroyed according to the City of Burnsville's General Records Retention Schedule.

A report was run on October 14, 2020, from Evidence.com for all of the BWC data deleted by the Burnsville Police Department between October 1, 2018, and September 30, 2020. A sample of 25 videos was haphazardly selected, and the time between the creation and deletion dates was compared to the City of Burnsville's General Records Retention Schedule and for compliance with Minn. Stat. § 13.825, subd. 3. One video was manually deleted after 58 days. No other exceptions were found.

5. Procedure

Determine that a record is maintained and available to the public identifying the total number of devices owned or maintained; a daily record of the total number of recording devices actually deployed and used by officers; the policies and procedures for use of BWCs required by Minn. Stat. § 626.8473; and the total amount of recorded audio and video data collected and maintained, the retention schedule, and the procedures for destruction of the data.

### Findings

Body worn camera data is available upon request, either in person or by submitting a request on the City of Burnsville's website. A report was run on October 21, 2020, from Evidence.com to show the total number of active BWC devices and to whom they were assigned. All officers are required to wear BWCs while on duty. The patrol schedule was examined to identify the number of BWCs in use on October 20, 2020. The BWC policy was located on the Burnsville Police Department's webpage. A summary report of all recorded audio and video data collected and maintained by the Department on October 20, 2020, was examined. No exceptions were found.

### 6. Procedure

Determine that records are maintained showing the date and time BWC data were collected and the applicable classification of the data.

### Findings

A report was run on October 14, 2020, from Evidence.com for all of the BWC data collected by the Burnsville Police Department between October 1, 2018, and September 30, 2020. A sample of 25 recordings was haphazardly selected and compared to the Audit Trail in Evidence.com to ensure that the data classification requirements were met. No exceptions were found.

### 7. Procedure

Determine that data stored by a vendor in the cloud protects the data in accordance with security requirements of the United States Federal Bureau of Investigation Criminal Justice Information Services (CJIS) Division Security Policy 5.4 or its successor version.

### Findings

A Master Agreement between the City of Burnsville and Evidence.com included language that stated that Evidence.com was in compliance with the CJIS policy. Also, Axon has demonstrated compliance with this policy through a CJIS Whitepaper and has been independently validated by CJIS ACE, part of Diverse Computing, Inc. Diverse Computing, Inc., is a third-party law enforcement and criminal justice software company.

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We were not engaged to, and did not, conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on the Burnsville Police Department's compliance with Minn. Stat. §§ 13.825 and 626.8473 regarding BWCs. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the City of Burnsville and is not intended to be, and should not be, used by anyone other than the specified party.

*/s/Julie Blaha*

JULIE BLAHA  
STATE AUDITOR

December 16, 2020

*/s/Dianne Syverson*

DIANNE SYVERSON, CPA  
DEPUTY STATE AUDITOR