

Portable Audio/Video Recorders

509.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this office 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.

509.1.1 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.

509.2 POLICY

The Goodhue County Sheriff's Office 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 Office by accurately capturing contacts between members of the Office and the public.

509.3 MEMBER PRIVACY EXPECTATION

Prior to going into service, uniformed members will be responsible for making sure that they are equipped with a portable recorder issued by the Office, 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.

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.

509.4 MEMBERS 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 Office, 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.

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509.5 PROCEDURE

The following post deputies will be required to wear a BWC: Intake, Rover(s), Court, E-Unit, F-Unit, Special Management, Sergeants, ADS's working in the capacity as a Shift Commanders, and programs. If a Detention Deputy is assigned to perform hospital duty they will be assigned a BWC (for BWC activation reference 509.6). Other staff may be required to wear a BWC at the discretion of the Sergeant or Administration.

BWC camera users shall check the BWC at the start of each shift to ensure it is functioning and in good working order.

BWC camera users shall wear the BWC above the midline of their torso and/or in a position designed to produce an effective video and audio recording. If a deputy discovers at any time during their shift that the BWC is not operating properly they shall notify their supervisor.

509.6 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) When responding to a call for assistance.
- (b) Use of force situations.
- (c) Restraint chair use.
- (d) When completing security inspections.
- (e) When completing cell inspections and/or cell searches.
- (f) When completing a well-being check and/or formal count. (not required in Intake if no detainees are present).
- (g) When completing a custodial pat search as part of the booking process.
- (h) All victim, witness, and suspect statements.

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- (i) Disciplinary sanction notices & Disciplinary hearings.
- (j) Any other situation deemed as unusual, per the user's professional judgment.

Program Staff Only;

- (a) All the above situations, and;
- (b) When conducting site, work and/or home visits of work release detainees.
- (c) When conducting sentence to service (STS) site visits.

To respect the dignity of others, staff will try to avoid recording videos of persons who are nude or when bare human body areas are exposed. If deemed necessary to record this type of footage an incident report must be completed.

BWC users shall not use the BWC to record other staff or professionals outside of the interactions with detainees, without prior approval from the Jail Administrator or designee. The BWC shall not be used to record non-work-related personal activity and shall not be activated in places such as locker rooms, dressing rooms, or restrooms, unless the incident is in that location. Members shall not surreptitiously record another office member without a court order unless lawfully authorized by the Sheriff or the authorized designee.

509.6.1 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.

If users fail to activate the BWC or the recording is interrupted the users shall document why the recording was not made or interrupted in an incident report. Users may verbally indicate their intent to stop the recording and/or restart the recording.

509.6.2 LIVE STREAMING CAPABILITY USE AND RESTRICTIONS

The Office issued BWC's have the capability to live stream data only when the BWC is actively recording (meaning in operation by the deputy wearing the BWC and/or an auto-activation). Live streaming permissions will be set at the Sergeant level or above. Under no circumstance shall any member of the Office, no matter the rank, use the live stream capability to monitor deputy work performance, behavior, or private conversations amongst members of this office. Supervisors that use the live streaming capability shall, at the first reasonable and safe opportunity, notify the deputy or deputies that had their live streaming capability activated. The notification may be made orally or in writing. Written notification can include an email, instant message, or text message to the deputy.

509.7 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

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in any related incident report. BWC users shall securely upload all recordings no later than the end of their shift / following shift. Each officer using a BWC is responsible for assuring the data from his/her camera properly transferred to the designated storage.

If a deputy feels and/or confirms via review of the data, that a private conversation was captured, they have the right to contact the BWC Administrator(s) to request that the private conversation be redacted from the releasable BWC footage. The Sheriff or his designee overseeing the BWC Administrator will review the request and footage to determine if redaction is approved. The Sheriff, his designee or the BWC Administrator will contact the deputy requesting the redaction when the decision has been made.

509.7.1 SUPERVISOR RESPONSIBILITIES

Will regularly review and assess staff compliance with this procedure regarding use of BWC equipment.

509.8 REVIEW OF RECORDED MEDIA FILES

The BWC equipment and all data, images, video, audio and metadata captured, recorded or otherwise produced is the sole property of Goodhue County. All data is subject to the provisions of the Minnesota Government Data Practices Act (MGDPA) and is classified according to the type of data it is under MGDPA. An employee who collects data from a BWC worn by him/her or whose image or voice is captured in the data is considered to be a subject of the data. Most corrections or detention data is considered private or confidential. Dissemination outside of the Goodhue County Sheriff's Office (GCSO) is strictly prohibited except to the extent permitted or required by law. Data may be reviewed by BWC users in the following situations:

- (a) When preparing reports or statements.
- (b) By a supervisor investigating a specific incident.
- (c) By a supervisor to assess staff compliance with this procedure.
- (d) To assess proper functioning of the BWC systems.
- (e) By an GCSO investigator who is participating in an official investigation.
- (f) Staff who are captured on or referenced in the video or audio data may have access to such data in compliance with MGDPA or if otherwise permitted by law.
- (g) For individual or group training purposes, but if an involved staff member objects to the showing of the recording, his/her objection will be submitted to a supervisor to determine if the training value outweighs the staff objection for not showing the recording. In no event, shall any recording be viewed for the purpose of ridicule or embarrassment of any staff, detainee, or other person shown on the recording.
- (h) By supervisory staff to assess possible training value.

All media unless otherwise determined to be of evidentiary, investigative, or training value will be retained for 90 days after which it may be destroyed in accordance with the Goodhue County

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retention schedule. Pursuant to the MGDPA, the data will be retained if requested in writing by a subject of the data.

509.9 COORDINATOR

The Sheriff 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., taser discharges, certain use of force incidents, Disciplinary proceedings, 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 GCSO 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 Goodhue County Sheriff's Office.
 - 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 Goodhue County Sheriff's Office.
- (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 Goodhue County Sheriff's Office that expands the type or scope of surveillance capabilities of the office's portable recorders.
- (h) Ensuring that this Portable Audio/Video Recorders Policy is posted on the Office website.

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509.10 PROHIBITED USE OF AUDIO/VIDEO RECORDERS

Members are prohibited from using office-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 office-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the ADC Administrator. Any member who uses a personally owned recorder for office-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.

509.11 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 180 days.

The following recordings shall be maintained longer;

- (a) Use of Force = 2190 days (6 years)
- (b) Death / suicide or attempt = permanent

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).

509.11.1 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.

509.11.2 ACCESS TO RECORDINGS

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

509.12 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).

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