
Portable Audio/Video Recorders

523.1 PURPOSE AND SCOPE

This policy provides guidelines to all correctional staff for the use and management of portable audio/video recording devices and data by members of this office while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, handheld or integrated into portable equipment.

This policy does not apply to licensed peace officers assigned to the patrol division, interviews or interrogations conducted at an McLeod County Sheriff's Office facility, undercover operations, wiretaps or eavesdropping (concealed listening devices) unless captured by a portable recording system.

523.1.1 DEFINITIONS

Definitions related to this policy include:

Portable recording system - (PRS) A device worn by a member that is capable of both video and audio recording the member's activities and interactions with others as provided in Minn. Stat. §13.85

523.2 POLICY

The McLeod 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 inmates.

523.3 COORDINATOR

The Sheriff or authorized designee should designate a coordinator responsible for:

- (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 ed seq.).
- (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 MCSO 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:

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1. Total number of devices owned or maintained by the McLeod County Sheriff's Office.
2. Daily record of the total number deployed and used by members.
3. Total amount of recorded audio and video data collected by the devices and maintained by the Office.
4. Preparing a biennial audit.

523.4 MEMBER PRIVACY EXPECTATIONS

All recordings made by members on any office-issued device at any time or while acting in an official capacity of this office, regardless of ownership of the device, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

523.5 MEMBER RESPONSIBILITIES

Prior to starting shift, each member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Office, and that the recorder is in good working order. 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 practical.

The portable audio/video recorder user shall wear the device above the midline of their torso and in a position designed to produce effective audio and video recording.

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.

The portable audio/video recorder user shall tag and download all recordings no later than the end of their shift.

523.6 SUPERVISOR RESPONSIBILITIES

Whenever reasonable a supervisor shall respond to all incidents as defined in Section 523.7 to ensure the incident is being captured by the PRS. The supervisor will ensure all recordings are securely downloaded prior to the end of each shift. Supervisors should assess and review at reasonable or regular intervals staff performance captured by the PRS.

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523.7 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) Booking an uncooperative inmate or an inmate who is known to have demonstrated uncooperative behavior prior to booking.
- (b) When responding to calls for assistance.
- (c) Any involvement with restraint chair or WRAP use.
- (d) Any verbal and/or physical altercations.
- (e) Use of force situations.
- (f) Calculated use of force situations:
 - 1. Removal of uncooperative arrestees from squad cars or transport vehicles.
 - 2. Removal of uncooperative inmates from cells.
 - 3. Any situation where an officer believes force could potentially be used.
- (g) A situation deemed unusual, within the users professional judgment.
- (h) Any victim witness statements.
- (i) Inmate movement to segregation.
- (j) Close observation checks.
- (k) When directed by a supervisor.

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 practical.

523.8 PROHIBITED AUDIO/VIDEO RECORDER USAGE

To respect the dignity of others, staff will make every effort to avoid recording videos of persons who are nude or partially nude. The portable recording system shall not record in an area where a reasonable expectation of privacy exists unless there is an incident in that location that calls for activation.

Recording the following are prohibited:

- (a) Interactions solely among employees when not actively responding to or investigating an incident.
- (b) Non-work related activity.
- (c) In patient care areas outside of the jail unless necessary to comply with Mandatory Recording situations described in this policy.

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- (d) Routine unclothed body searches.

523.9 DOWNLOADING AND LABELING BWC DATA

Each member using a PRS is responsible for transferring or assuring the proper transfer of the data from his or her PRS by the end of the member's shift. However, if the member is involved in an in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor shall take custody of the members's PRS and assume the responsibility for transferring the data from it.

Members should label the PRS data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. Members should assign as many of the following labels as are applicable to each file:

- (a) Administrative - The event involved an adversarial encounter or resulted in a complaint against the Officer. This includes PREA complaints.
- (b) Booking/Intake - The event involved an uncooperative or suicidal inmate or an inmate who is known to have demonstrated uncooperative/suicidal behavior prior to booking.
- (c) Officer Injury - The event involved an injury to an Officer.
- (d) Searches - The event involved a Level I pat search, cell search, or transport vehicle search.
- (e) Training - The event was such that it may have value for training.
- (f) Transport - The event involved transports within or out of the facility.
- (g) Uncategorized - The event has not been labeled yet or does not fit the list.
- (h) Use of Force - Application of force, use of the Restraint Chair or the Wrap, cell extractions, or deployment of the TASER that also requires Use of Force reporting as defined in policy.
- (i) Well-being checks - The event involved a well-being check or close observation check.

Labeling may be corrected or amended based on additional information.

523.10 ACCOUNTABILITY

Any member who accesses or releases recording without authorization may be subject to discipline.

523.11 REVIEW OF RECORDED MEDIA FILES

The portable audio/video recording devices and all data, images, video, and audio, recorded or otherwise produced is the sole property of McLeod County. All data is subject to the provisions of the MGDPA and is classified according to the type of data it is under the MGDPA. Most corrections or detention data is considered private or confidential. Dissemination outside of the McLeod County Sheriff's Office is strictly prohibited except to the extent permitted or required by law. Members may review data in any of the following circumstances:

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- (a) When preparing reports or statements;
- (b) By a supervisor investigating a specific incident;
- (c) By a supervisor to assess staff performance;
- (d) To assess proper functioning of the PRS system;
- (e) By a McLeod County Sheriff's Office or other law enforcement investigator who is participating in an official investigation, such as a personnel complaint, administrative inquiry, civil action, or criminal investigation;
- (f) Staff who are captured on or referenced in the video or audio data may have access to such data in compliance with the MGDPA or otherwise permitted by law;
- (g) For individual or group training purposes, but not if an involved staff member objects to the showing of the recording. In no event shall any recording be used or shown for the purpose of ridicule or embarrassment of any staff, detainee, or other person shown on the recording;
- (h) By the supervisory personnel to assess possible training value;
- (i) The McLeod County Sheriff's Office reserves the right to limit or restrict staff from accessing or viewing recorded data subject to the rights under the Data Practices Act.

523.12 RELEASE OF AUDIO/VIDEO RECORDINGS

Request for the release of audio/video recordings shall be processed in accordance with Office policy.

523.13 RETENTION OF RECORDINGS

All recordings shall be retained for a period consistent with the requirements of this Office's record retention schedule, but in no event for a period of less than 90 days.