

# Portable Audio/Video Recorders

## **341.1 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. 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 St. Croix County Sheriff's Office facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

## **341.2 POLICY**

The St. Croix County Sheriff's Office may provide members with access to portable recorders, either audio or video or both, 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.

### **341.2.1 OPERATIONAL OBJECTIVES**

The St. Croix County Sheriff's Office has adopted the use of Portable Audio/Video Recorders Policy to accomplish the following objectives:

- A. To enhance member safety.
- B. To document statements and events during the course of an incident.
- C. To enhance the member's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
- D. To preserve visual and audio information for use in current and future investigations.
- E. To provide a tool for self-critique and field evaluation during member training.
- F. To enhance the public trust by preserving factual representations of member-citizen interactions in the form of recorded media.
- G. To assist with the defense of civil actions against members and St. Croix County.
- H. To assist with the training and evaluation of members.

## **341.3 MEMBER PRIVACY EXPECTATION**

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

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#### **341.4 MEMBER RESPONSIBILITIES**

Prior to going into service, each uniformed 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 practicable. Uniformed members should wear the video recorder in a conspicuous manner, front facing and above the members belt.

When using a portable recorder, the assigned member shall record his/her name, SCSO identification 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 member'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. Members should include the reason for deactivation.

Member safety shall be the primary consideration for the use and activation of the portable audio/video recording device.

Deputies assigned to plain clothes, investigators, administrative personnel, or undercover work that could compromise an on-going investigation, shall not be required to wear a body worn camera during their day-to-day work activity unless working in a uniformed call response capacity or are otherwise required by this policy or a command-level directive.

#### **341.5 ACTIVATION OF THE AUDIO/VIDEO RECORDER**

This policy is not intended to describe every possible situation in which the portable 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 portable video recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops, field interview (FI) situations, Terry Stops of a motorist or pedestrian, and searches, seizures or arrests.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops, and vehicle searches.
- (c) Self-initiated activity in which a member would normally notify the Emergency Communications Center
- (d) Any other contact that becomes adversarial, including, but not limited to, physical or verbal confrontations and use of force, after the initial contact in a situation that would not otherwise require recording

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- (e) Anytime the uniformed member is operating an authorized emergency vehicle in emergency mode, which has the meaning that lights and/or siren are activated, including but not limited to vehicle pursuits and priority responses.
- (f) Anytime a member executes a search warrant in the field.
- (g) Activation when a member is in contact with an inmate in the secured area of the jail, including but not limited to the follow:
  1. Tours/rounds for inmate well-being checks/cell checks at the pod.
  2. Inmate disciplinary procedures.
  3. Pre-booking of inmates, including inmate pat searches.
  4. Responding to emergencies within the jail or courtroom.
  5. Anytime that an inmate is not following directives or the use of force is possible.
  6. When placing an inmate in the restraint chair or using other restraints on an inmate.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media, but such instances of not recording when otherwise required must be documented as specified in this policy. However, the recorder should be activated in situations described above as soon as reasonably practicable.

### **341.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER**

Wisconsin law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Wis. Stat. § 968.31(2)(b)).

Members 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 office member without a court order unless lawfully authorized by the Sheriff or the authorized designee.

### **341.5.2 EXPLOSIVE DEVICE**

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

### **341.6 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 stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

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Recording may be audio muted to exchange information with other members and/or legal counsel. The intention to mute audio will be noted by the member either verbally on the recording device or in a written report.

### **341.7 PROHIBITED USE OF PORTABLE 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 unless exigent circumstances arise. 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.

### **341.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

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

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 undercover officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Public Records Law (Wis. Stat. § 19.31 et seq.).

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.

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### **341.9 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.

Supervisors are authorized to review relevant recordings at any time.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Office who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Sheriff or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release and released pursuant to the Records Maintenance and Release Policy.

### **341.10 COORDINATOR**

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

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.

### **341.11 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 121 days. If a notice of claim or litigation hold is received, all records related to the incident shall be retained until further notice. Recordings that are used in a criminal, civil or administrative proceeding may not be destroyed until final disposition is made or until a determination or order is provided by the court or hearing examiner that the recordings are no longer needed.

#### **341.11.1 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.

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#### **341.12 EMERGENCY RESPONSE UNIT (ERU) RECORDINGS**

Members of the Emergency Response Unit (ERU) should wear the video recorder in a conspicuous manner, front facing and above the belt when on a call-out. For pre-planned search warrants, recording should begin during vehicle movement to the target location. For extended tactical operations, recording should begin prior to anticipated tactical intervention and should capture any negotiations or other relevant activity when possible. Recording should continue until the incident is resolved.