

## Portable Audio/Video Recorders

### 420.1 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.

This policy does not apply to mobile audio/video recordings, interviews, or interrogations conducted at any Swift County Sheriff's Office facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices).

#### 420.1.1 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.

### 420.2 POLICY

The Swift 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.

### 420.3 MEMBER PRIVACY EXPECTATION

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.

### 420.4 ACTIVATION OF THE VIDEO/AUDIO RECORDER

This policy is not intended to describe every possible situation in which the 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. All enforcement and investigative contacts including traffic stops and field interview (FI) situations.
- b. Traffic stops, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- c. Self-initiated activity in which the member would notify the 911 communications center.

# Swift County Sheriff's Office

Swift County So Policy Manual

## *Portable Audio/Video Recorders*

---

d. Any other contact that becomes adversarial after the initial contact in a situations that would otherwise not require recording.

Members should remain sensitive to the dignity of all the individuals being recorded and exercise sound discretion to respect the privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh and legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is longer at issue unless the circumstances no longer fit the criteria for recording.

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 practicable.

### **420.5 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 (BWC) issued by the Office, and that the recorder is in good working order (Minn. Stat 13.825). At the beginning of each shift the deputy or staff member shall activate their body camera to ensue it is functioning in good working order. This can be completed by activating the body camera directly or by using the activation button on the squad car camera recording system, or by the activation of their squad car's emergency light bar - if the body worn camera (BWC) is integrated to work with the staff members in squad car recording system.

If the recorder is not 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 recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. 626.8473).

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 practicable.

#### **420.5.1 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. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident. This office does not require its uniformed personnel to have recording devices activated during entire shifts.

#### **420.5.2 SURREPTITIOUS RECORDINGS**

Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02).

# Swift County Sheriff's Office

Swift County So Policy Manual

## *Portable Audio/Video Recorders*

---

Members of the Office 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.

### **420.5.3 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.

### **420.6 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 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 under-cover officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Minnesota Data Practices Act.

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.

### **420.7 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 any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

# Swift County Sheriff's Office

Swift County So Policy Manual

## *Portable Audio/Video Recorders*

---

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) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Sheriff or Chief Deputy prior to public release (See the Records Maintenance and Release Policy). Recordings that are clearly offensive to common sensibilities should not be publicly released unless disclosure is required by law or order of the court (Minn. Stat. § 13.82, Subd. 7).

The Sheriff of the Swift County Sheriff's Office does provide deputies and Records Staff and those other office members (i.e. Communications and Corrections Officers doing transports, escorts, court security, etc.) - whom use this offices recording systems- blanket type authorization to review their own generated recordings as long as it relates to the performance of their duties.

This viewing of these recordings is only allowed as it relates to the office members performance of their duties while on duty.

Records Staff may review videos that are to be disseminated by this office in order to ensue they are disseminating the correct video - that is in working order. No member shall view another office members videos without a legitimate work related purpose.

The Sheriff of Swift County does allow staff from the Swift County Attorney office to view recordings as needed to perform their official duties while assisting the Swift County Sheriff's Office. Requests for these recordings should be made in written form via email or memo to the SCSO Records Office. The Records staff should document these requests in the corresponding SCSO ICR - under the Dissemination log in the videos corresponding ICR and / or any other type of log being used by the Offices Records Clerk.

Members of other governmental entities agencies requesting these recordings shall follow the procedures established for those not employed by this office. The outside agency / entity should contact the Records Office at the SCSO to arrange for access to this data - as it pertains to the performance of their official duties. The Records staff should document these requests in the corresponding SCSO ICR and /or any other type of log being used by the Offices Records Clerk.

This should be considered blanket authorization by the Sheriff of Swift County in allowing SCSO staff members to review their own data (recordings) while in the performance of their duties.

# Swift County Sheriff's Office

Swift County So Policy Manual

## *Portable Audio/Video Recorders*

---

### **420.8 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., firearm discharges, certain use of force incidents, 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 SCSO 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 Swift 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 Swift 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 Swift 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.

### **420.9 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.

# Swift County Sheriff's Office

Swift County So Policy Manual

## *Portable Audio/Video Recorders*

---

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 Senior Deputy On Duty. 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.

### **420.10 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.

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).

#### **420.10.1 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.

#### **420.10.2 ACCESS TO RECORDINGS**

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

Any person captured in a recording may have access to the recording. If the individual requests a copy of the recording and does not have the consent of other non-law enforcement individuals captured on the recording, the identity of those individuals must be blurred or obscured sufficiently to render the subject unidentifiable prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under Minn. Stat. § 13.82, Subd. 17.

### **420.11 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).