

## Portable Audio/Video Recorders

### 423.1 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, handheld or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Wadena County Sheriff's Office facility, undercover operations, wiretaps or eavesdropping (concealed listening devices) unless captured by a portable recording system.

#### 423.1.1 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.

### 423.2 POLICY

The Wadena 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.

### 423.3 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.

### 423.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed and non-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 (Minn. Stat. § 13.825). This consists of conducting a "Test" recording and labeling it as such. 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. [See attachment: BWC Test Procedure.pdf](#)

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).

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording

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in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

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 (Minn. Stat. § 626.8473). Members should include the reason for deactivation.

### **423.5 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 will activate the recorder any time the member believes it would be appropriate or valuable to record an incident, and anytime a "Call For Service" is generated where the member is in contact with the general public (exceptions listed below).

The recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify Dispatch
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

The recorder should not be activated in any of the following situations:

- (a) When attending public events, such as; school functions, fairs, picnics ect.
- (b) When entering a medical facility (HIPAA laws), (\*Activation allowed only for recording investigative statements.\*)
- (c) Civil Commitment Transports
- (d) When entering the secure area of a Jail or Detention facility
- (e) Whenever a "Call For Service " is generated and the activity reflects the above mentioned situations

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same

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criterion. Recording should resume when privacy is no 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.

### **423.5.1 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.

### **423.5.2 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).

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, for the purpose of conducting a criminal or administrative investigation.

### **423.5.3 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.

### **423.6 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.

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- (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.

### **423.7 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. Supervisors will periodically, preferably weekly, conduct an audit or random review of recordings to make sure members are complying with policy.

Monthly, Supervisors will conduct a review of videos to make sure they have been labeled. If a video is found unlabeled, the Supervisor will review it and will apply the appropriate label.

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 Custodian of Records 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; Minn. Stat. § 13.825, Subd. 2).

### **423.8 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.
  - (a) 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

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Data Practices Act (MGDPA) and other applicable laws (Minn. Stat. § 13.01 et seq.) (See the Protected Information, Policy # 805 and the Records Maintenance and Release, Policy # 804 policies).

- (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 WCSO 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 Wadena 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 Wadena 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 Wadena County Sheriff's Office that expands the type or scope of surveillance capabilities of the office's portable recorders.

See attachment: [Visio-Wadena WG.pdf](#)

### **423.9 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.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty. 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, Minn. Stat. § 13.825 Subd. 6.

Members are prohibited from activating the portable audio/video recorder to record their supervisors, other members, or other co-workers while in the confines of any Sheriff's Office facilities. Unless for training purposes only.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

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### **423.10 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 90 days for not active or inactive criminal investigations, additionally, no less than one year for all other portable recording data. The Office will follow the retention of data outlined in Minn. Stat. § 13.825, Subd. 3.

If an individual captured in a recording submits a written request, the recording shall be retained for additional time period, up to 180 days. The coordinator should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825 Subd. 3 (2) (c)).

[See attachment: Records Retention Schedule.pdf](#)

#### **423.10.1 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.

#### **423.10.2 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.

### **423.11 ACCOUNTABILITY**

Any member who accesses or releases recordings without authorization may be subject to discipline (See Standards of Conduct, Policy # 320 and Protected Information, Policy # 805 policies) (Minn. Stat. § 626.8473).

## Attachments

## **BWC Test Procedure.pdf**



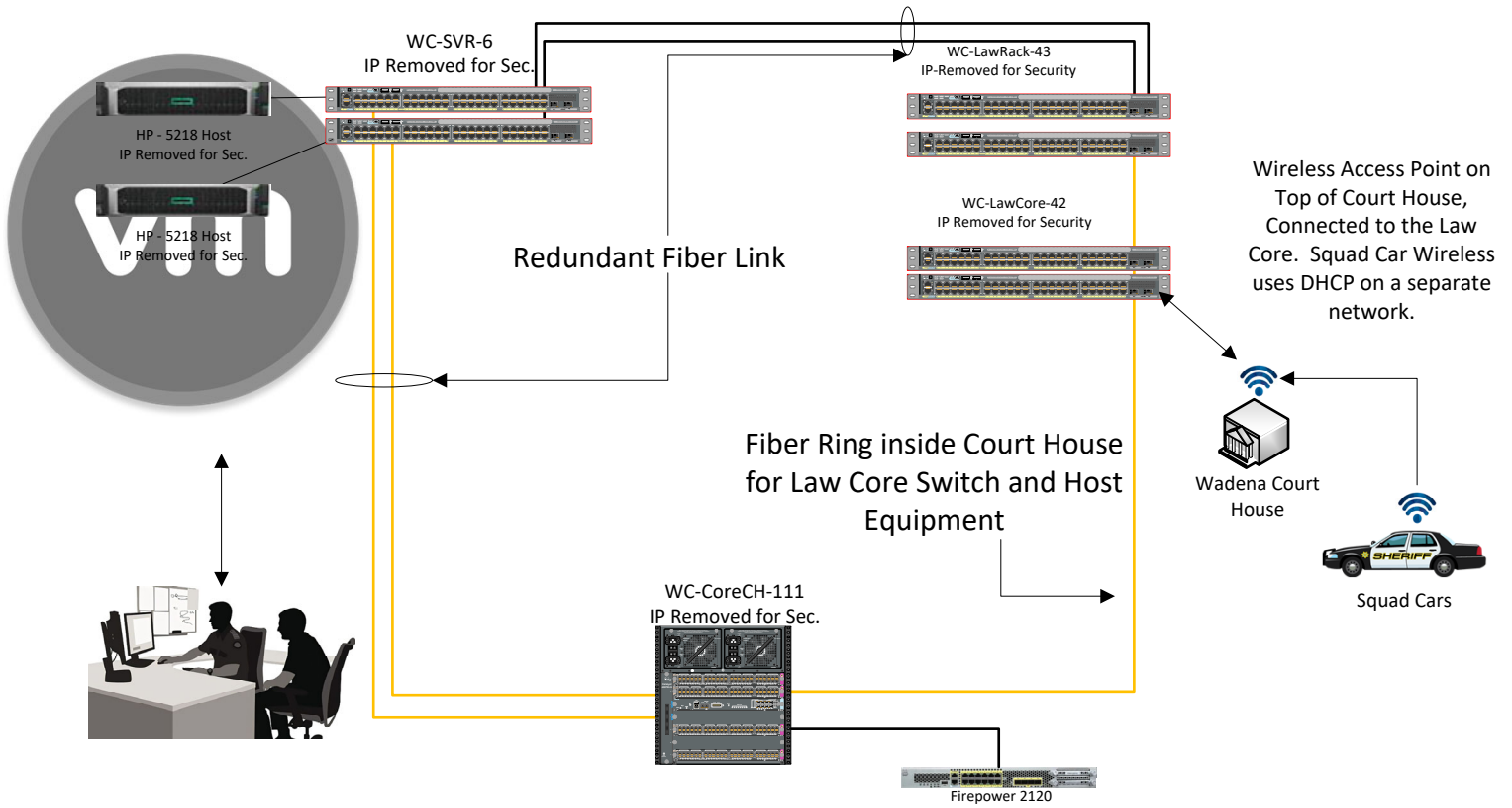


## Wadena County Sheriff's Office Body-Worn/In Squad Pre Shift Testing

Each member assigned a patrol car with a Watchguard system installed shall ensure it is operational at the beginning of each shift by the following procedure:

- Ensure you are logged into the camera system
- Ensure your Vista camera is/was docked and synced to the squad system
- Initiate a recording and ensure *both* camera systems activate upon initiation.
  - If successful, stop the recording and label as Test/Delete
  - If unsuccessful, first try to dock the Vista for approximately one minute before trying again.
  - If still unsuccessful, notify Sergeant as soon as possible.
- *Prior* to the end of your shift, ensure all videos have the proper label on them. This can be accomplished in the Evidence Library system.

## **Visio-Wadena WG.pdf**



Wadena County Sheriffs Office Deputies access the Watch Guard server through a webpage to upload and access video. The server is part of a High Availability Virtual Cluster System. Wadena County IT is the only department with Admin Access to the server and network.

## **Records Retention Schedule.pdf**

Wadena County Sheriff's Office Records Retention Schedule

This section of the Wadena County Sheriff's Office Data/Records Retention Schedule, outlines the data collection that is also titled "Audio/Video" and stored on the Agency's computer servers. All Audio/Video that is collected and added to any case file will be retained, in the case file, for the duration of the retention schedule mentioned in document titled; "Sheriff/Law Enforcement - County General Records Retention Schedule". All Audio/Video data will be deleted electronically upon the Agency's computer server deletion programming process.

Policy: 423 Portable Audio / Video Recorders

Agency hand-held digital recording device: Deputies will transfer recordings to case files. Immediately after the transfer, the recording will be deleted from the hand-held recording device memory.

Policy: 421 Mobile Video Recorders

Policy: 423 Portable Audio / Video Recorders

Squad car and Body Camera recording devices: Data from these devices will immediately be uploaded onto the Agency's computer server(s). Data collected and related to cases will be transferred to case files. All data collected and uploaded to the Agency's server(s) will follow the retention schedule listed below and automatically deleted from the server(s) at the end of the retention schedule time line.

<u>Category</u>	<u>Retention</u>
Test/Delete .....	90 Days
Motorist Assist.....	90 Days
Civil Process .....	90 Days
Traffic Warning .....	90 Days
Emergency Operation .....	90 Days
Other/Non Traffic .....	90 Days
Assist Other Agency .....	90 Days
Suspicious Vehicle/Behavior.....	180 Days
Traffic Citation.....	365 Days
Arrest.....	365 Days
DWI .....	365 Days
Pursuit .....	365 Days
Interview .....	365 Days

**\*\*Videos due are purged every Sunday\*\***

**\*\*Current as of 05/12/2022\*\***

Policy: 606 Unmanned Aerial System (UAS) Operations

Agency UAS (Drone) attached recording device: Agency will follow guidelines set forth in the UAS Procedure Manual. Data collected during UAS missions will be destroyed through electric deletion after each mission, from the recording device memory.

Policy: 339 Public Safety Video Surveillance System

Public Safety Video Surveillance System: (This includes the Jail Facility Audio/Video security system) The Agency's computer server will retain data into memory for up to 30 days. Any data that is needed for investigative purposes and transferred into an investigation case file will follow the records retention schedule. The Agency will follow procedure set forth in Agency's policy number 339 Public Safety Video Surveillance System.

Policy: 808 Radio and Telephone Recording Access/Retention

Agency Radio and Telephone Recording system: The Agency's Recording system will retain this data for up to 18 months. Any data transferred from the system for Law Enforcement purposes or data requests will follow the appropriate records retention schedule.