


## Hubbard County Sheriff's Office

<b>Subject: Portable Audio/Video Recording Devices</b>		
<b>Policy #: 02-036</b>	<b>Issue Date:</b> 02/01/2022	
<b>Effective Date:</b> 02/01/2022	<b>Revision Date:</b>	
<b>Issued By:</b>  Sheriff Cory Aukes		
<b>Purpose:</b> To provide guidelines for the use of portable audio/video recording devices by members of this Office while in performance of their duties.		

### Policy, Rules, Procedure:

#### 1) POLICY

The Hubbard County Sheriff's Office has implemented the use of portable recording devices, and may issue one of these devices to officers for use during the performance of their official duties.

#### 2) DEFINITIONS

**Portable Recording Device:** A device that is capable of audio and video recording, that is possessed by an officer, intended to accurately record interactions with members of the public.

#### 3) PROCEDURES

A. At the beginning of each shift, uniformed officers are responsible for making sure that their portable recording device is functioning properly. Supervisor notification shall take place as soon as possible if the device is not working properly, or if a malfunction occurs. A properly functioning device shall be obtained as soon as reasonably practicable.

Non-uniformed officers may utilize a portable recording device anytime it may be useful.

Portable recording devices should be worn in a conspicuous manner, or the persons being recorded should be notified whenever reasonably

practicable. This procedure does not apply to non-uniformed officers who are conducting a recording of a lawful undercover operation.

Oral communications may be inconspicuously recorded as long as one individual involved in the conversation has knowledge that the conversation is being recorded, and has given prior consent to the recording.

When a portable recording device is used, the officer's name, badge number, date/time at the beginning of use and date/time at the end of use shall be recorded. This information can be recorded manually or by the device and software program that is utilized.

The existence of a recording should be documented in a report or other official record. Any instances where the recording device malfunctioned or was deactivated should also be documented in the report, along with the reason for the deactivation.

- B. This policy does not describe every possible situation where a portable recording device should be used. Devices shall be activated anytime it would be appropriate or valuable to record an interaction, and anytime there is personal interaction with a member of the public during a call for service. The device should be activated in any of the following situations:
  - a. Traffic stops including motorist assists
  - b. Self-initiated activity when Dispatch would normally be notified
  - c. Any other enforcement or investigative interactions
  - d. Any other contact that becomes adversarial when recording would not normally be required
- C. Dignity of individuals being recorded should be taken into consideration. Recording should be discontinued whenever it reasonably appears that an individual's privacy outweighs any legitimate law enforcement interest in recording. This same procedure should be considered if a member of the public requests the recording to be stopped. Recording should resume when the privacy concerns are no longer an issue unless the situation no longer fits the requirements for recording.
- D. Officer safety should never be jeopardized in order for a portable recording device to be activated. The device should be activated in these situations as soon as reasonably practicable.

- E. Once activated, the portable recording device should continue recording until it is reasonably believed that direct participation in an event has concluded, or the situation no longer fits the requirements for recording. The recording may be stopped during extended periods of inactivity or during breaks from direct participation in an event.
  
- F. The following actions involving portable recording devices are prohibited:
  - a. Utilizing County issued devices for personal use
  - b. Making personal copies of recordings created while on-duty or while acting in an official capacity
  - c. Personally retaining possession of recordings of on-duty activities or information obtained, created while on-duty or while acting in an official capacity. This procedure applies to recordings made with County issued and personal devices. Any such recordings shall not be duplicated or distributed except for legitimate business purposes. Any such recordings shall be retained at the Sheriff's Office.
  - d. Utilizing personal recording devices while on-duty without receiving prior supervisor approval. Any recordings made with a personal device are subject to the provisions of this policy.
  - e. For the purpose of a criminal or administrative investigation, utilizing portable recording devices to inconspicuously record communications with co-workers or supervisors without a Court Order or lawful authorization of the Sheriff or Sheriff's designee.
  - f. Utilizing recordings for the purpose of embarrassment, harassment or ridicule.
  - g. Activating a portable recording device in an area that may contain an explosive device. This does not apply to authorized use of recording devices by members of the Emergency Response Unit who may be utilizing authorized distraction devices.
  
- G. The Sheriff, or designee, should designate a Coordinator who is responsible for the following:
  - a. Establishing procedures for the security, storage and maintenance of data and recordings. These procedures should be in compliance with the Minnesota Government Data Practices Act and any other applicable laws.
  - 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.
  - e. Establishing an inventory of portable recording devices to include:

- i. Total number of devices owned or maintained by the Office.
  - ii. Daily record of the total number deployed and used in the field.
  - iii. Total amount of recorded audio and video data collected and maintained by the Office.
  - iv. Preparing the biennial audit required by Minnesota Statute 13.825 sub. 9.
  - v. Notifying the MN BCA within a reasonable time period when new equipment is obtained that expands the type or scope of surveillance capabilities of the Office's portable recording devices.
- H. All recordings shall be retained for a period consistent with the County General Records Retention Schedule. Recordings will never be retained for a period of less than 90 days for inactive investigations. All other portable recording device data will be kept for no less than 1 year.

Recordings may be kept for an additional period of time if a written request is received from an individual who is captured in a recording. The Coordinator should notify the individual of these requests prior to destroying the recording.

- I. Except as provided by MN Statute 13.825 sub. 2, audio and video recordings are considered private or non-public data. Any person captured in a recording may have access to the recording. If the individual captured requests a copy of the recording, the identity of other non-law enforcement individuals captured in the recording must be sufficiently obscured to protect their identity prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under MN Statute 13.82 sub. 17.
- J. Any employee who accesses or releases recordings without authorization may be subject to discipline up to and including termination.