

<b>VAN BUREN COUNTY - ALL COURT POLICY</b>		
<b>SUBJECT: DIGITAL AUDIO/VIDEO RECORDINGS OF COURT PROCEEDINGS</b>	<b>SECTION:</b> 4 - Video-Transcript-Media-Social Network	<b>DATE:</b> 5/11/2021
<b>PREPARED BY:</b> Frank Hardester	<b>NUMBER:</b> Policy 4.002	<b>RESCINDS:</b> 8/29/16, Circuit Court Policy AD-1005-i

**REFERENCES:**

- [18 USC 2265\(d\)\(3\)](#)
- [County Technology Policy](#)
- [LAO: C36 2020-05J, D07-03J, P80-03J Access, Inspection, Reproduction and Creation of Court Records](#)
- [MCR 3.210; MCR 3.215; MCR 3.904; MCR 8.108; MCR 8.109; MCL 600.8411\(2\)](#)
- [Manual for Court Reporters and Recorders](#)
- [Michigan Trial Court Case File Management Standards](#)
- [Michigan Trial Court Standards for Courtroom Technology](#)
- [Records Retention Disposal Schedule, General Schedule #16](#)
- [SCAO Memorandum Dated January 19, 2017 regarding Dissemination of PPO Information](#)
- [Supreme Court Administrative Order 1989-1- Film or Electronic Media Coverage of Court Proceedings](#)

**DEFINITIONS AND ABBREVIATIONS:**

- a/v: audio/video
- BIS: Business Information Systems (courtroom recording systems vendor)
- DCR: Digital Court Recording – Software used by BIS to log and record court proceedings
- DCR Player: Digital Court Recording Player – Software used to play court proceedings recorded by BIS software.
- Electronic storage device: videotape, CD, DVD, NAS (Network Attached Storage, i.e. Synology) or other device approved by the court to store recorded proceedings
- FOC: Friend of the Court Office
- IT: Van Buren County Technology Department

**BACKGROUND:**

- A. A uniform policy is needed to provide consistency with video recordings throughout all areas of the court; to provide consistency in logging court events throughout all areas of the court; to reflect the decision of the judges regarding requests to view and copy public court proceedings; to allow for easy access and retrieval of recorded media; and to provide storage, retention, viewing, copying and destruction procedures.
- B. A policy to address use and operation of video monitors is necessary to provide guidelines for appropriate viewing, to prevent unprofessional use of monitors, and ensure that closed proceedings are appropriately limited to authorized persons.
- C. As the court started to utilize technology to effectively manage and record court proceedings, documentation was needed to reflect the history of court recording methods and is noted below:

Courtroom 1:                    Audio / Video - Digital: 10/1/2013  
(Circuit)                        Court Reporter: all hearings prior to 10/1/2013

Courtroom 2:                    Audio / Video – Digital: 12/1/2014  
(Circuit)                        Court Reporter: all hearings prior to 12/1/2014

Courtroom 3:                    Audio / Video – Digital: 10/5/2015  
(Probate/Circuit)            Audio Only – Digital: 6/3/2009  
Audio Only – Tapes: all hearings prior to 6/3/2009

Courtroom 4:                    Audio / Video – Digital: 11/2/2015  
(District East)                Audio Only – Digital: Officially 2012  
Audio Only – Tapes: All hearings prior to 2012

Courtroom 5:                    Audio / Video – Digital: 12/1/2015  
(District West)                Audio Only – Digital: CD's all hearings 2015 and earlier  
Hearing Room A:              Audio / Video – Digital: 11/9/2015  
(FOC)                            Audio Only – Digital: 9/26/2011

Audio Only – Tapes: all hearings prior to 9/26/2011

NOTE: Board Room Hearing Room: Discontinued use of room 6/1/2015  
(FOC) Audio Only – Tapes: 1998 to 6/1/2015

Hearing Room B: Audio / Video – Digital: 10/30/2015  
(Juvenile) Audio Only – Digital: 2011

Hearing Room C: Audio / Video – Digital: 11/2/2015  
(DCE Magistrate) Audio Only – Tapes: all hearings prior to 11/2/2015

Hearing Room D: Audio / Video – Digital: 11/4/2015  
(DCW Magistrate) Audio Only – Digital: all hearings prior to 11/4/2015

D. Long Term Storage & Backup:

The court will maintain two copies (copy a & copy b) of each proceeding as required by SCAO Standards for Digital Audio/Video Recordings and State Retention Schedules.

Copy A: Copies of court proceedings will be maintained on a network storage device at a separate facility from where Copy B is stored. Copy A is stored electronically at the County Administration Building in Paw Paw, MI.

Copy B: A second official audio/video copy will be stored off premises (from copy a) on a network storage device at a separate facility from where Copy A is stored. Copy B is stored electronically at Historic Courthouse in Paw Paw, MI.

Due to storage limitations, data may need to be transferred onto an archive capable media device and stored by the Court for a period not to exceed the retention schedule. This applies to both copy A and copy B storage devices.

The use of a network storage device for long term storage and backup began as follows:

Courtroom 1: October 1, 2013

Courtroom 2: December 1, 2014

Courtroom 3: June 3, 2009

Courtroom 4: April 1, 2013

Courtroom 5: December 1, 2015

Hearing room A (FOC) and B (Juvenile): September 26, 2011

Hearing Room C: November 2, 2015

Hearing Room D: November 4, 2015

POLICY STATEMENT:

- A. Video recordings of court procedures will be logged, labeled, stored/retained, viewed, retrieved, copied and destroyed as set forth in the procedures below.
- B. The use of two-way interactive video technology will be in accordance with Michigan Court Rules and any requirements and guidelines established by the State Court Administrative Office.
- C. Video monitors for courtroom video recording equipment are to be used for the purposes of security in the courtroom; to monitor and anticipate judges' needs by judicial staff; and for staff to determine availability of a judge or progress of cases in lieu of phone calls to the courtrooms.
- D. Signs will be posted in all courtrooms and hearing rooms warning occupants of the room of the use of audio/video camera system. Signage will state: "Video Cameras and microphones in the room are continuously live and may be recorded at any time. Activity in this courtroom can be seen and heard in other locations throughout the courthouse."
- E. Daily video recording system operation is the responsibility of courtroom and hearing room staff. Detailed instructions and information can be found in the Michigan Trial Court Standards for Courtroom Technology and in the Manual for Court Reporters and Recorders. Failure to follow policies and procedure can compromise the integrity of the record.
- F. Destruction of records will be in accordance with Michigan Trial Court Case File Management Standards, General Schedule 16.

- G. Small claims proceedings will be recorded for internal purposes only. However, they will not be available for viewing, copying, or transcript preparation pursuant to MCL 600.8411(2).

## PROCEDURES:

### A. Video Recordings

#### 1. Recording Information/Process.

- a. Each courtroom and hearing room records real time on devices in two separate locations and then backed up at a third location:
- 1) Location 1: Courtroom / Hearing Room PC – short term copies are stored in real time on the recording computers in the courtroom/hearing room that the proceeding occurred.
  - 2) Location 2:
    - a) Paw Paw Courtroom / Hearing Rooms:
      - In real time, the courtroom / hearing room recording pc records simultaneously onto the Synology 1 – network storage device for long term storage located in the Jail Basement Datacenter. This is called Copy A.
    - b) South Haven Courtroom / Hearing Room:
      - In real time, the courtroom / hearing room recording pc records simultaneously onto a virtual server network storage device for short term storage and transfer which is located in South Haven in the Clerk's office.
      - Overnight, starting at 8:00 p.m., the virtual server sends data to the Synology 1 – network storage device for long term storage located in the Jail Basement Datacenter. This is called Copy A.
  - 3) Location 3: In real time, Synology 1 copies data from Synology 1 to a second Synology network storage device for long term retention of court proceedings. This device is located in the Jail Basement Datacenter and is called Copy B.
  - 4) Location 4: Nightly at 6:00 p.m., Synology 1 performs a backup job that copies court recordings to a third Synology device located in the County Administration Building. This is Copy C.
- b. The automated system will store data in the following format: Court – Location – Recording Type – Case # - Year – Month – Day.
- c. Confidential proceedings will have added security placed on the a/v files that will require a password. Password information can be obtained through the court administrator and only that password shall be used for confidential recordings.
- d. Subsequent to completion of training, courtroom/hearing room staff will:
- 1) Use the Case Management System (JIS/MiCourt) and BIS integration to load daily docket information into the DCR software. (see procedure manuals TEC-765-767) Some courts do not have this feature and load docket information manually.
  - 2) If docket information must be manually entered, staff will enter case-specific information using the following format for all case types:  
2-digit year – 6-digit number - 2 letter suffix  
Examples: 15-065123-CZ  
                  15-019123-FH  
                  15-123456-NA  
If multiple cases are heard at the same time, users will type both case numbers into the docket # field in the DCR software.  
Example: 14-019673-FH-14-019674-FH  
  
For proceedings without a case number, staff may use an appropriate file name:  
Examples: Drug Treatment Court  
                  Swearing in Ceremony  
  
For additional information, see VBC Manuals in the TEC (technology) section.
  - 3) While recording, courtroom staff is responsible for monitoring the recording by using the confidence indicator tools:
    - a) Headphones: can be used to listen to the recording. (note – there is a slight 5-10 second delay from the live proceeding.)

- b) Channel Indicators: The DCR software has eight indicators for each channel of recorded audio. Be sure that these indicators reflect audio is being recorded.

If there is any doubt that the recording system is not recording, courtroom staff must immediately inform the hearing official and stop the proceeding. Once the hearing is stopped, restart the pc and test the operation of the system. If the problem continues, contact IT or BIS for further assistance.

- 4) On a daily basis, staff must perform a test of all the microphones and then playback the recording to confirm that audio/video is being properly recorded. Staff must also verify that files are being mirrored from the recording computer to the Z: (long term backup) location.
  - 5) In the event of Court Recording issues, take the following steps:
    - a) Notify the hearing official & request to stop the proceeding
    - b) Notify the Court Administrator or his/her designee.
    - c) If necessary, contact IT and the vendor (BIS).
- e. Access and security.
- 1) Security will be used to restrict access to the court recordings. Only the courtroom computers have read/write access to the long term (copy a) location. All other specified court users have read only access to the (copy b) recordings.
  - 2) Confidential proceedings will be further secured using a password on the file prior to the start of the recording. Password information must be obtained from court administrator. Examples of Confidential Proceedings include:
    - a) Confidential Adoption Proceeding
    - b) Confidential Parental Waiver
    - c) Confidential Other (miscellaneous proceeding)

Access to the above a/v files can only be approved by the court administrator.

3) **Copy A:**

Network mapping for the Synology 1 device is as follows: [\\SynRs01](#)

Only the following authorized staff should attempt to access these files:

- a) Hearing Official
- b) Courtroom Clerk
- c) Judicial Secretary
- d) Department Supervisor / Director / Administrator
- e) IT

The courtroom / hearing room recording PC's are the only devices that have read/write capabilities for Copy A recordings.

4) **Copy B:**

Network mapping for the Synology 2 device is as follows: [\\SynRs02](#)

Changes to data on Copy B can only be made with the assistance by IT.

NOTE: Changes made to Copy A propagate to Copy B. The courtroom / hearing room recording PC's are the only devices that have read/write capabilities for Copy A recordings.

- 5) Read Only access to the files will be available to select court staff as authorized by the court administrator via a file network path and will use the Copy B location (SynRs02):

Example:

Z:\courtrooms\CR1\

- 6) For DCR Player access instructions, see:

- a) VBC Manual TEC-760, *Courtroom Recording System – DCR Player*

2. Register of Actions (ROA) documentation.

- a. Case ROA information will designate the courtroom/hearing room location in the comment section as follows:

- 1) DCR1 = Courtroom 1 Recording Computer
- 2) DCR2 = Courtroom 2 Recording Computer

- 3) DCR3 = Courtroom 3 Recording Computer
- 4) DCR4 = Courtroom 4 Recording Computer
- 5) DCR5 = Courtroom 5 Recording Computer
- 6) DCRA = Hearing Room A Recording Computer
- 7) DCRB = Hearing Room B Recording Computer
- 8) DCRC = Hearing Room C Recording Computer
- 9) DCRD = Hearing Room D Recording Computer

3. Retention of Recordings.

- a. The long-term storage (copy a) for court recordings will be retained on the network storage device for a period consistent with the retention schedule for those proceedings. When / if the hard drive is full, the drives will be removed and maintained during the retention period.
- b. The long-term backup (copy b) for court recordings will be stored off-site on the network storage device for a period consistent with the retention schedule for those proceedings. When / if the hard drive is full, the drives will be removed and maintained during the retention period.

4. Retrieval/Viewing/Transcripts of Recordings.

- a. Any individual may view public court hearings by scheduling a date and time for replay by contacting the court services unit and following procedures outlined in VBC-2003, *Notice Regarding Copying, Viewing, & Transcripts Requests*; and completing form VBC-2004, *Court Audio/Video Recording Request*. Confidential and/or closed proceedings (i.e. Juvenile Proceedings, Adoptions, Parental Waivers, and PPO's) may only be viewed upon the approval of the hearing official presiding at the court proceeding or in his/her absence, the division's presiding judge or their designee. Viewing station(s) for attorneys/parties to view recordings will be available on the second floor of the historic courthouse. Reasonable accommodations may be considered by court for immediate requests to view a video record.
- b. Any individual may obtain copies of audio/video recordings or transcripts of public court proceedings by contacting the court services unit and following the procedures outlined in VBC-2003, *Notice Regarding Copying, Viewing, & Transcripts Requests*; and completing form VBC-2004, *Court Audio/Video Recording Request*. For non-public or any other proceedings that are protected from public view, requests will be subject to the discretion of the hearing official presiding over the case or in his/her absence, the division's presiding judge or their designee. Any applicable fees will be waived for court appointed attorneys if the request is for a court appointed related matter. Court appointed attorneys must return to the court any flash drives or other temporary media device after they have obtained the files needed. Reasonable accommodations may be considered by the court for immediate requests to copy a video record.

In order to preserve and maintain the integrity of court records and to prevent unreasonable interference with the discharge of court functions, persons will not be permitted to copy or otherwise duplicate court recordings using their own equipment.

- c. Requests to access to audio/video files of PPO proceedings are subject to the discretion of the hearing official presiding over the case or in his/her absence, the division's presiding judge or their designee.
- d. For audio tapes or discs, the original tape must never leave the possession of the court. If the recording needs to be obtained, a copy must be made.
- e. Transcripts may be requested by following the procedures set forth in VBC-2003, *Notice Regarding Copying, Viewing, & Transcripts Requests*; and completing form VBC-2006, *Transcript Request*.
- f. Without prior approval of the Chief Judge or designee, it is prohibited for any person to do any of the following:
  - 1) Reproduce or distribute any audio/video recording, in whole or in part, obtained from the court.
  - 2) Alter, distort, or change in any way an audio/video recording obtained from the court.
  - 3) Publish or post on the internet any audio/video recording, in whole or in part, obtained from the court, including, but not limited to, posting on any form of social network media, blogs, print media, digital media, broadcast media, etc.

Any violation of this provision shall be treated as contempt of court and may subject the violator to contempt of court sanctions.

**The above restrictions do not apply to attorneys of record and official news media representatives.**

5. Destruction of Recordings.
  - a. The methods and procedures for disposing of a record will be followed in accordance with The Michigan Trial Court Case File Management Standards, General Schedule 16.
  - b. Long Term Storage – Copy A: At the end of each calendar year, court recordings older than retention schedule requirements will be destroyed and/or removed from storage.
  - c. Long Term Backup – Copy B: All Copy B recordings will be destroyed in the same manner as Copy A recordings.

## **B. Use of Video Monitors**

1. Video monitors are to be used only by court staff members and court security to perform the functions of their jobs. Monitors are not to be viewed for curiosity or entertainment by staff or the public. If attorneys or the public wish to observe an open proceeding, they may view the proceeding from the public gallery in the courtroom.
2. Volume.

Volume on the monitors will be turned off unless needed to perform job functions. Examples: Courtroom offices would activate volume to monitor courtroom activity for security purposes and to monitor progress of cases; scheduling and jury staff would activate volume to determine progression of courtroom dockets.

When volume is activated, it will be kept at a low level to ensure witnesses, jurors and other parties to the case cannot hear the proceedings through the monitors; and to reduce disturbance to employees working within range of the monitors.
3. Discussion of Cases.

Court employees who view the monitors will not thereafter discuss the court cases within hearing range of the public, most importantly jurors; and will not critique the actions of the parties in the cases. Court employees will not discuss closed proceedings with co-workers unless necessary to process the case.
4. Closed Proceedings.
  - a. Closed proceedings include parental waivers, adoptions and any court proceeding designated by the hearing official as being a closed proceeding.
  - b. Closed court proceedings shall not be viewed by any public or staff members. Exception: Judicial staff for the assigned judge may monitor proceedings from the court's office, in which case the office door will be closed so that no other staff or public can view the monitors.
  - c. Courtroom staff will ensure that public entrances to the courtroom are locked or guarded. The judicial secretary assigned to the courtroom will notify staff having access to monitors that the monitors must be turned off during the closed proceeding.
  - d. Court employees will not discuss closed proceedings with co-workers unless necessary to process the case.
5. Meetings in Courtrooms or Hearing Rooms.

Private or confidential meetings are not recommended in courtrooms or hearing rooms. In the event a private or confidential meeting must occur, the meeting initiator must contact the court administrator to make arrangements for the BIS system to be completely turned off. This process will ensure sound and video will not be transmitted through the external monitors.
6. Violations of Guidelines.

Violations of these guidelines for monitor usage may result in disciplinary measures that include but are not limited to reprimand, suspension or termination. Any actual or suspected violation of these guidelines must be promptly reported to the court administrator.

**C. IS and Circuit Court Collaboration.**

1. At the end of each year, IT will review the storage capacity on the recording computer's hard drive. Review results will be communicated with the Court Administrator to determine what steps need to be taken on the recording pc's hard drive. For example, if the drive is nearly full, steps will be taken by the Court Administrator to delete the files which will create free space.
2. IT monitors, updates and performs drive scrubbing routines on a monthly basis on both Synology 1 and Synology 2 units. IT will review storage capacity concerns and contact the Court Administrator when/if data needs to be moved off the devices and placed on another archive capable media device. The Court Administrator will work with IT to properly move the identified data as necessary. After the retention period has expired, the archived media data will be destroyed.

**D. Court and BIS Collaboration.**

BIS technicians agree to sign confidentiality agreements regarding access to the audio / video recordings for all of Van Buren County courtrooms and hearing rooms.

FORMS USED:

VBC-2003: Notice Regarding Court Audio / Video Recordings – copying, viewing & transcript requests

VBC-2004: Court Audio/Video Recording Request


VBC-2006: Transcript Request

EFFECTIVE:

Date: 05/11/2021

APPROVAL:

Date: 05/11/2021

  
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Chief Judge

Judge Kathleen Brickley P41930