



KERN COUNTY PROBATION DEPARTMENT

Policies And Procedures

TITLE: Institution Video Monitoring Systems			Article: 1617
APPROVED: William Dickinson, Chief Probation Officer			
EFFECTIVE: May 2019	REVIEWED: July 2018	REVISED: September 2024	UPDATED: May 2019

PURPOSE

Institution Video Monitoring Systems (IVMS) used in Probation detention facilities are designed to enhance safety and security for the youth population, Probation employees, other institution staff, and the general public. Video or audio data obtained from the IVMS will be available on a need to know basis and will be used both in real time for security purposes, and to review previously recorded incidents for the purpose of assisting management in analyzing those incidents and ensuring compliance with rules, regulations, policies, and law. These systems shall not be used in a way that infringes on or improperly surveils on confidential communications between behavioral health professionals and their clients.

POLICY

This policy applies to all types of camera systems, monitors, and recording devices used for security purposes at Probation detention facilities. This policy sets forth limited authorized use of video images and audio recordings obtained from these systems and mandates the required storage time.

Probation employees, contractors, or vendors with access to the IVMS are required to comply with this policy. Use of the IVMS in violation of this policy may result in discipline up to and including termination.

For the purpose of this policy the term “normal, responsible, and reasonable supervisory practices” includes, but is not limited to, assisting officers in writing their reports, answering questions regarding recorded incidents, and resolving discrepancies in reported facts; to investigate allegations of wrong doing, complaints, or grievances; to review critical incidents; to assist in the evaluation of staff performance; to identify staff training or procedural issues; to ensure appropriate reporting to management and adequate documentation of events; to assist allied law enforcement agencies conducting investigations; to conduct security reviews regarding the actions of youth, members of the public, parents, and allied agency or contracted workers. It does not include spending an unreasonable or excessive amount of time reviewing the IVMS in violation of this policy or to the detriment of other duties.

Procedure

A. Prohibited uses of IVMS Recordings

1. Audio and video from the IVMS shall not be used in any manner in violation of the law or County rules, policies or procedures. This data shall

in no manner be used for any improper, illegal, offensive or harassing purpose. Activities prohibited by this policy include, but are not necessarily limited to the following:

- a. Any personal use or uploading to any internet web site without the expressed written authorization of the Chief Probation Officer.
- b. Any use with the intent to ridicule or embarrass any employee or any member of the public.
- c. Any review of recordings by an authorized person which is random, arbitrary, or capricious.
- d. Any review of recordings by an unauthorized person(s).
- e. Any tampering, deleting, or altering of recordings.
- f. Any recording of audio or video images reviewed on a system monitor by another recording device (cell phone, tablet computer, or other device).
- g. Any review, or series of reviews, by any supervisor or manager for the sole purpose of determining whether employees are engaged in misconduct without due cause. This does not preclude a supervisor or manager from viewing recordings as part of normal, responsible, and reasonable supervisory practices.
- h. Any accessing or sending of any material or communication in violation of any federal, state, or local law, ordinance, or regulation.
- i. Any unauthorized or improper downloading, accessing, viewing or sending of any audio or video images.
- j. Listening to confidential communications between a behavioral health professional and a detained youth, or observing confidential documents during such communications.

B. Viewing IVMS Recordings

- 1. Direct access to review video images or audio recordings on the IVMS will be limited to the members of the Probation Department listed in a-h below. If these persons are reviewing footage that includes audio recordings between behavioral health professionals and youth, they shall cease review of the audio portion in compliance with section A(1)(j) of this policy unless otherwise authorized to proceed by facility managers, Deputy Chiefs or the Chief Probation Officer:
 - a. Deputy Probation Officer IIIs assigned to institutions
 - b. Assistant Probation Division Directors

- c. Probation Division Directors
- d. Deputy Chief Probation Officers

- e. Chief Probation Officer
 - f. Internal Affairs Investigators, as directed by management
 - g. Probation IT staff assigned to IVMS maintenance.
 - h. Other, as authorized by the Chief Probation Officer or designee
2. Review of video images and audio recordings is permitted for the following purposes (Note: All viewing by Probation or other agency personnel will be done by or under the supervision of those with direct view access as listed in B, 1. a-h. above):
- a. By any sworn Probation employee for the purpose of completing required reports.
 - b. By Deputy Probation Officer IIIs, or institution managers as part of their normal, responsible, and reasonable supervisory practices.
 - c. Any peace officer investigating incidents captured by the IVMS may review the video evidence prior to completing an investigative/supplemental report.
 - d. By any sworn Probation staff, with supervisor (DPO III or above) approval, who are conducting follow-up on specific cases or incidents and finds it necessary to review a video.
 - e. Unforeseen circumstances may occur that prohibit involved personnel from viewing the video evidence prior to completing the investigative/supplemental report (i.e. emergency circumstances, maintenance issues, etc.). In these circumstances, personnel will be required to complete their report with timelines prescribed in Department policy. They may state in their report that access to the IVMS was unavailable. Once the unforeseen circumstance is resolved, if there are any additional observations viewed by the reviewing personnel believed to be relevant, they shall document those observations in a supplemental report.
 - f. By the Chief, Deputy Chief, Probation Division Director, Assistant Probation Division Director, or Deputy Probation Officer III, who are conducting reviews of a critical incidents, such as a use of force, citizen or youth complaints, youth grievances, or evaluations of Probation Department business practices.
 - g. By Internal Affairs Investigators to review specific incidents relevant to allegations, complaints, or grievances.
 - h. By administration from allied agencies who have staff assigned to

work within the institution to investigate allegations of wrong doing by their employee and with management approval.

- i. By Department trainers as directed by management for the sole purpose of developing Department training curriculum. No recordings from an incident currently under investigation or administrative review shall be used for this purpose. Section A. 1. b. will be considered in any training curriculum.
- j. By assigned Probation IT staff for the purpose of ensuring the system is working as intended.
- k. By Probation management while conducting audits pursuant to Section D.
- l. As directed by the Chief Probation Officer.

C. Limitations

The Department recognizes the IVMS can be limited in its perspective. It recognizes that a staff may not have perceived everything the IVMS captures or conversely, a staff may have perceived something which the IVMS did not capture. The IVMS is one of several factors that may be considered in analyzing an incident.

D. Audits

Management will conduct periodic audits of individual direct access users. These audits will occur at least twice a year and will include, but not be limited to, a report of system usage including dates and time spent reviewing recordings. The purpose of these audits is to ensure the use of the IVMS is in accordance with this policy.

E. Privacy

All Kern County employees, employees from other agencies and departments, and the general public who enter Probation detention grounds or facilities shall be subject to video/audio recording. All County rules, regulations, and guidelines, as they presently exist and as they may be amended in the future, regarding ethical and appropriate behavior by County employees and the appropriate use of County resources, apply to the use of IVMS. Criminal or Civil action brought against employees may be appropriate where laws or rights are violated.

Employees should have no expectation of privacy in any material generated by the IVMS.

The contents of any video or audio data obtained by the IVMS may be disclosed to authorized parties without the permission of those depicted in the recordings.

Employees must not assume their activities or recordings of those activities are confidential or private. Only authorized Probation Department staff will have access to the entire network.

Data obtained from the IVMS are considered public records under Government Code section 6253.9 (part of the Public Records Act) which provides that, although records are

in electronic format, they are still subject to review and inspection by the public. Release of any audio/video materials must comply with requirements set forth in WIC 827.

E. Captured Video & Audio

The Kern County Probation Department retains all personal property rights in any matter created by the IVMS. Such matter is not the property of the employee or youth.

Videos shall not be used in a way that monitors or releases any confidential communication between a behavioral health professional and a youth. Audio will be turned off when recordings of behavioral health treatment are accessed by an authorized person, unless otherwise authorized to proceed by facility managers, Deputy Chiefs or the Chief Probation Officer.

F. Notice of County's Rights

The IVMS may be subject to Public Disclosure and/or subpoena by the Courts. All electronic media communications are always considered to be County records. If a Public Records Act Request seeks information relating to a behavioral health professional's interaction with a youth, the Probation Department shall have a Behavioral Health Privacy Officer review and redact any portions of tape involving a behavioral health professional's interactions with a youth. Such recordings shall be provided to County Counsel for secondary review prior to release.

G. Storage

Video and audio recorded by the IVMS will be stored electronically for a period of 13 months. The system will automatically write over data that has been stored longer than 13 months. If, due to legal requirements, data must be retained past the 13-month period of time it will be marked and exported.

1. Exported video footage

The Chief, the Chief's designee, or institution managers are authorized to export video footage. Additionally, DPO IIs assigned to an institution and under the direction of their assigned Director or Assistant Director, may be authorized to export video footage. Exported video footage will temporarily be stored on the local hard drive of the viewing station, copied to an encrypted flash drive, and transferred to a secure Probation Department file server. As soon as reasonably possible after the successful transfer of the video footage to a secure Probation Department file server, the video footage shall be deleted from the encrypted flash drive and the local hard

drive of the view station. Access to the secure Probation Department file server will be controlled using an access control list. The Chief or Chief's designee will determine who has access to the video storage location on the secure Probation Department file server. During transport, all exported video footage shall be encrypted. The cryptographic module used shall be FIPS 140-2 certified and use a symmetric cipher key of at least 256-bit strength.

In accordance with all applicable laws, exported video footage may be stored on the secure Probation Department file server longer than the thirteen (13) month retention period. Exported video stored on the secure Probation Department file server will be deleted in accordance with all applicable laws.

H. Requests for copies of incidents captured by the IVMS

The operation of the IVMS will create a demand for copies of individual video/audio data of incidents that occur in the facilities. Requests for copies of video/audio may come from a variety of sources including Internal Affairs, County Counsel, allied law enforcement agencies, and the media. All copies provided must be encrypted using AES 256-bit encryption. The following procedures shall be followed for the release of video/audio data.

1. Requests from authorized representatives of the Kern County Probation Department

The request will be made directly to the specific institution's Probation Division Director, or if unavailable the Assistant Probation Division Director or Deputy Chief. The Probation Division Director or designee will direct the requesting Probation staff to send a request form for tracking purposes. If the requested video includes any interaction between a youth and a behavioral health professional, the video shall be reviewed by a Behavioral Health Privacy Officer for redaction prior to being reviewed by Probation staff. The request form will contain the following:

- a. Approximate or specific date and time of incident
- b. Name(s) of youth and/or staff involved
- c. Description and location of the incident(s)
- d. Name of person requesting the information
- e. Statement indicating justification for the request

2. Requests from other agencies or County Counsel

The request will be directed to the specific institution's Probation Division Director, or if unavailable the Assistant Probation Division Director or Deputy Chief. The Probation Division Director or designee will direct the requesting agency to send a request form for tracking purposes. The request form will contain the following:

- a. Approximate or specific date and time of incident(s)

- b. Name(s) of youth and/or staff involved
- c. Description and location of the incident(s)
- d. Name of person and agency requesting the information

- e. Statement indicating justification for the request

The facility Probation Division Director will work with the requester to determine what video/audio data needs to be provided. Upon approval by the Deputy Chief Probation Officer, the Probation Division Director will locate and download the requested information and make it available to the requester. If the requested video includes any interaction between a youth and a behavioral health professional, the video shall be reviewed by a Behavioral Health Privacy Officer for redaction prior to being made available to the requester. All approved data request/releases will be logged and maintained by the affected Probation Division Director.

3. **Media/Press/Other requests**

Requests for video/audio data by the media, resulting from a subpoena or other court order, or from any source not listed above will be directed to the Deputy Chief Probation Officer and the institution's Probation Division Director. If the requested video includes any interaction between a youth and a behavioral health professional, the request will also be provided to the Behavioral Health Privacy Officer.

I. **Unauthorized access and/or Disclosure (Privacy Breach)**

Any staff who becomes aware of any unauthorized disclosure of a digital record, and/or a potential privacy breach has a responsibility to ensure management is informed as soon as practical but in no event later than 24 hours from becoming aware of the breach.

J. **Maintenance**

Maintenance problems with the IVMS shall be reported using the following procedure.

1. Staff discovering a maintenance problem will notify the Duty Supervisor as soon as reasonably possible explaining the problem.
2. As soon as reasonably possible the Duty Supervisor will:
 - a. Evaluate the problem and determine whether the problem is maintenance or technology related.
 - b. If the issue is one of maintenance, such as a dirty lens, the Duty Supervisor will report the issue to the appropriate party.
 - c. If the issue is of a technical nature, a Jira will be submitted to Probation Technology Services.

- d. In either case the Duty Supervisor shall contact the facility Probation Division Director and Assistant Probation Division Director to report the matter.