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Title Document: Required Use of Surveillance Video Cameras in DDSN Regional Center ICFs/IID Settings

Date of Issue: February 21, 2019
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Applicability: DDSN Regional Center ICFs/IID

PURPOSE

This directive outlines required standardized requirements for surveillance video camera usage in the South Carolina Department of Disabilities and Special Needs (DDSN) Regional Center ICFs/IID. Each Regional Center ICF/IID will be required to install surveillance video cameras.

The regulatory foundation for this policy is found at 42 CFR 483.420 the Condition of Participation: Client Protections, which requires that the facility must ensure the rights of all clients, referred to in the DDSN system as “individuals supported.” Specifically, the ICFs/IID must:

- Ensure that clients are not subjected to physical, verbal, sexual or psychological abuse or punishment - § 483.420(a)(5);
- Provide each client with the opportunity for personal privacy and ensure privacy during treatment and care of personal needs -§ 483.420(a)(7); and
- Ensure clients the opportunity to communicate, associate, and meet privately with individuals of their choice -§ 483.420(a)(9).

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PHILOSOPHY

There may be instances in which the use of surveillance video cameras may be helpful reviewing the behavior of staff and individuals supported by DDSN to verify that services are being provided in environments free from physical, verbal, sexual or psychological abuse, mistreatment or punishment. However, great care must be exercised to prevent any unintended violation of an individual's rights and privacy when such equipment is used in the setting.

Consistent with the regulations which require that the provider protect the privacy and rights of the individuals supported in the facility, surveillance video cameras may only be used in the common areas or shared spaces of the facility where individuals supported have lower expectations of privacy and where, in the normal course of their day, they may encounter visitors, staff, other clients, or medical personnel.

Conversely, surveillance video cameras may never be used in areas where the individuals supported have the highest expectations of privacy, such as bathrooms, bedrooms, or areas where residents meet privately with visitors or make personal phone calls.

REQUIRED SAFEGUARDS

Each DDSN Regional Center ICF/IID will be required to install surveillance video cameras.

- 1) To ensure that any use of surveillance video cameras comply with regulatory requirements that individuals supported rights are fully protected, and any use of surveillance video cameras in the facility must be approved by the Specially Constituted Committee (SCC) of the facility as constituted per § 483.440(f)(3). This is referred to as the Human Rights Committee (HRC) in the DDSN system.
- 2) Affected individuals supported and their families or guardians must be informed of the SCC/HRC's approval to use surveillance video cameras in a specified area. Written informed consent must be obtained (Attachment 1) by the individual and review/approval of the Human Rights Committee. It must be obtained from every individual supported living in the physical unit prior to the implementation of surveillance video cameras or from his/her designated guardian. If a facility consists of several physically separate living units, and the individuals supported (and guardians if applicable) of a single unit have consented to the implementation of surveillance video cameras, it is not required that the individuals supported residing in the other units (and their guardians as applicable) provide informed consent, since they would be considered guests when visiting this unit. However, the facility administration should still inform all individuals supported living on the grounds (and their guardians if applicable) that surveillance video cameras are in use in this specific unit and appropriate signage should be in place to reflect this use.
- 3) To ensure the confidential use of the surveillance video camera recordings, the following must be followed:
 - a) Facility Administrators and their designees; Administrators on Duty (AOD), and entities with investigative authority will be the only persons provided access to surveillance video camera viewing or use of the surveillance video;

- b) All staff with authorized access to surveillance video camera recordings are properly trained in DDSN policies and the protection of individuals supported rights before accessing the footage. This training should be documented in the personnel file; and personnel/staff with surveillance video camera viewing access must be properly trained in polices and protection of individuals supported rights; and,
 - c) All staff with authorized access to the surveillance video camera recordings must comply with the surveillance video camera policy monitored by the Facility Administrator or his/her designee. Risks or breaches of the policy must be promptly reported to the Chief Information Security and Privacy Officer (risk@ddsn.sc.gov).
- 4) The DDSN Regional Center may not utilize surveillance video cameras in lieu of adequate staffing or supervision protocols. The use of surveillance video cameras must not replace or otherwise substitute for trained and available direct care staff at a sufficient level to provide active treatment
 - 5) The DDSN Regional Centers must incur the entire cost of any surveillance video camera usage in the facility. Individuals supported or their families may not be charged.

PROCEDURES

1) Signs

Facilities employing surveillance video cameras will prominently display postings that recording is in progress. Signs will be posted in the facilities. Surveillance video camera recording will occur within common areas 24 hours per day.

2) Consent

Prior to admission, individuals supported or their legal guardians must consent to surveillance video cameras recording in common areas.

3) Video Recording Overwrite Requirements

The surveillance video camera recordings must be retained for 60 days until after the final disposition of any review or legal action. Surveillance video cameras will be professionally installed and serviced by state approved vendors.

4) Recording Associated with Critical Injury or Allegations of Abuse, Neglect or Exploitation

Surveillance video camera recording affiliated with injury or allegations of Abuse, Neglect or Exploitation will be retrieved and preserved until 60 days after the final disposition of any review or legal action.

5) DDSN Review of Requirements

Recorded images will not be routinely checked and will only be reviewed in the event DDSN has a need to review the recorded images for limited purposes of implementing necessary and

required internal reviews, safety and quality improvement, internal education and training activities. The Surveillance Video Camera Recording Review Record (Attachment 2) will be completed in its entirety and stored in a confidential location.

6) Release of Recording

DDSN staff viewers of the surveillance video camera recordings will not take any recordings or images off campus and they should also not be transmitted electronically in any form (social media, etc.). The following purposes for release of footage would be acceptable as ordered by the DDSN State Director or her designee and documented on the Surveillance Recording Release Record (Attachment 3) as follows:

- Administrative Review
- Investigative entities as defined by S.C. Code Ann. § 43-35-3 et. seq. (2015)

7) Tampering/Breach or Misuse of Cameras or Recordings

Tampering with surveillance video cameras, to include unauthorized removal, or relocation is strictly prohibited. Any tampering will be subject to disciplinary action and/or criminal prosecution. Any breach or misuse will be reported to the DDSN Chief Information Security and Privacy Officer at risk@ddsn.sc.gov and is strictly prohibited.



Gary C. Lemel
Vice Chairman
(Originator)



Eva R. Ravenel
Chairman
(Approved)

Reference: July 29, 2011 Memo from CMS in Regard to Use of Video Cameras in ICF/MRs

Reference: LAC Recommendations, 2014

To access the following attachments, please see the agency website page “Current Directives” at <https://www.ddsn.sc.gov/providers/directives-and-standards/current-directives>.

Attachment 1	Informed Consent and Human Rights Approval Regarding Surveillance Cameras
Attachment 2	Surveillance Video Camera Recording Review Record
Attachment 3	Surveillance Video Camera Recording Release Record