

SHERIFF'S OFFICE POLICY AND PROCEDURE



CHAPTER TITLE: EQUIPMENT AND UNIFORMS ISSUED EQUIPMENT	ACCREDITATION STANDARDS: LE 41.3.8	DATE 4/2/2020
SUBJECT: JCSO PP 902 PORTABLE DIGITAL RECORDING DEVICES	APPROVED: 	

902. PORTABLE DIGITAL RECORDING DEVICES

This policy establishes guidelines for specified Jefferson County Sheriff's Office employees authorized to use portable digital recording devices (PDRD's) and/or mobile digital recording systems (MDRS's) and provides procedures for preserving the digital media in the department approved storage system. Employees who have not received official authorization to use PDRD's or MDRS's are strictly prohibited from carrying or utilizing any PDRD or utilizing a MDRS for sheriff's office business while on duty.

This policy does not apply to authorized users of PDRD's or MDRS's while serving in undercover roles, on specialized assignments, or on task forces such as DEA or FBI. In such circumstances, authorized users must abide by the policies governing the special assignment.

DEFINITIONS

Activated Mode - When a body worn camera and/or in-car video camera is actively recording, either through a programmed trigger (such as shots fired, officer down, sirens on and patrol car door open etc.) or by the operating deputy, the body worn camera and/or in-car video camera creates and preserves a video file associated with that activation.

Approved Mobile Digital Recording System- A digital audio and/or video recording device owned by the Jefferson County Sheriff's Office and installed in a sheriff's office motor vehicle for use documenting official sheriff's office related incidents.

Approved Portable Digital Recording Device - A digital audio and/or video recording device owned by the Jefferson County Sheriff's Office and assigned to authorized individuals for use documenting official sheriff's office related incidents.

Authorized Users - Sheriff's office employees who are assigned to the Criminal Investigations Division, Patrol Division, Administrative Investigations Unit, as well as approved supervisors, managers and department heads are authorized to utilize digital recording devices in the performance of official sheriff's office duties.

Digital Evidence - All video, audio, still images, and recordings made during the course of, or in furtherance of, official duties.

Enforcement - Any action or statement made by a law enforcement officer that utilizes their sworn authority to instruct, order, detain, frisk, arrest, search and/or use any type of force against an individual(s).

Mobile Digital Recording System (MDRS) - Any fixed mount audio and/or video recording device or devices installed in or on a sheriff's office motor vehicle, including dashboard cameras as well as other in-car cameras.

Portable Digital Recording Device (PDRD) - Any handheld, covert or body worn digital audio and/or video recording device, including cell phones, body worn cameras and dashboard cameras, issued by the JCSO.

Stand-by Mode - When a digital recording device or system is turned on and continually capturing video but is not actively recording or creating a video file.

PROCEDURES

Unless otherwise limited by its context, these guidelines apply to all PDRD's and MDRS's used in the course of or in furtherance of official duties.

The Jefferson County Sheriff's Office may provide authorized users with access to PDRD's and MDRS's capable of recording audio, video, or both, for use during the performance of their duties. The use of PDRD's and MDRS's is intended to enhance the mission of the sheriff's office by accurately capturing contacts between members of the agency and the public.

PDRD's assigned by the Jefferson County Sheriff's Office will be inspected at the beginning of every shift prior to going into service. It is the responsibility of the authorized user to whom the equipment is issued to ensure the device is properly maintained. Any damage or malfunction will be immediately reported to the shift supervisor and will be documented. The employees' immediate supervisor will secure a replacement device and will initiate the repair order of the PDRD through the Video Evidence Technician.

MDRS's installed by the Jefferson County Sheriff's Office will be inspected at the beginning of every shift prior to going into service. It is the responsibility of the authorized user to whom the vehicle is assigned to ensure the device(s) are working properly. Any damage or malfunction will be immediately reported to the shift supervisor and will be documented. MDRS's will be reported for repair through the Fleet Maintenance Unit and the Video Evidence Technician.

At the end of shift, the PDRD will be secured and charged.

Authorized users engaging in off-duty assignments will adhere to this policy while fulfilling any off-duty obligation for the sheriff's office.

Personally-owned Cell Phones and Other PDRD's

Employees will restrict their use of personally-owned cell phones and other PDRD's during work hours and will not engage in any use of such devices that interfere with assigned duties or compromise the safety of the employee or others, or the safety or security of any sheriff's office facility.

Department-issued Cell Phones and Other Approved PDRD's

Except as otherwise set forth in this policy, department-issued cell phones and other approved PDRD's will be used as set forth in JCSO PP 941 'Radio Maintenance Unit'. [\[LINK\]](#)

Body Worn Camera (BWC) / In-Car Video System (ICVS)

Training

Sheriff's office employees and supervisors will undergo an initial training course on basic operation and maintenance of the BWC or ICVS upon assignment as an authorized user.

Activation of the BWC / ICVS

Authorized users will activate the BWC / ICVS at the inception, or first reasonable opportunity to do so, of all contacts that are conducted in person with a member of the public where there is potential for enforcement and/or criminal investigation; and any other encounter that would not otherwise require recording yet becomes adversarial after the initial contact.

In the event an immediate threat to the life or safety of a deputy or member of the public makes activating the BWC impossible or dangerous, the user will activate the BWC / ICVS as soon as it is safe to do so.

Additionally, if remote access of a BWC / ICVS is necessary, such access must be at the order of a watch commander, or higher. In no event will a BWC / ICVS be remotely accessed while the BWC / ICVS is in stand-by mode unless emergency remote activation is required due to exigent circumstances.

Specific events that occur will trigger automatic recording of the BWC. Those events may include:

- gunshot detection
- detection of downed deputy
- light bar or siren activation
- long gun release
- entry into a designated geo-fencing area
- foot pursuit detection

Specific events that occur will trigger automatic recording of the ICVS. Those events may include:

- light bar or siren activation
- long gun release
- entry into a designated geo-fencing area

Additional authorized users who arrive on scene and are equipped with BWC's or assigned ICVS will activate their BWC's / ICVS immediately and begin recording the situation until the user leaves the scene.

Once the BWC / ICVS device is recording, it will remain on and recording until the incident has concluded. For the purposes of this policy, conclusion of an incident has occurred when an arrest has been made, defendants have been transported to the appropriate facility, and/or witnesses and victims have been interviewed. The only exceptions to this policy include:

- when there is a long break in the incident or contact;
- for an unrelated assignment that has no investigative purpose;
- when interacting with a person seeking to anonymously report a crime or assist with an ongoing law enforcement investigation.

Notification of Use

If asked, deputies must advise individuals that they are being recorded.

When interacting with an apparent crime victim, the authorized user must, as soon as feasible, ask the apparent victim if they want to discontinue use of a BWC or ICVS. If the apparent crime victim responds affirmatively, the authorized user must immediately discontinue use of the BWC or ICVS.

Documentation

Authorized users will document the existence of a BWC / ICVS in all reports. Additionally, if an authorized user fails to activate his or her BWC or the ICVS, fails to record the entire contact, or interrupts the recording, the authorized user will document why the recording was not made, was interrupted, or was terminated.

BWC Specifications

Only approved BWC's issued by the sheriff's office are permitted.

Exigencies

In exigent circumstances where a sheriff's office employee determines audio or video recording is crucial for the preservation of evidence and a BWC fails or is unavailable, a PDRD may be used to record such an event. All recordings are subject to the same requirements as those recordings made with approved BWC's. Upon complete submission of the recording into evidence, recordings on a department-issued cell phone will be deleted from the device.

Still Photography

The BWC may be used to capture still-imagery of any crime scene or incident, as necessary.

- To capture still imagery, the BWC will be removed from the holster.
- All photos will be taken on the 'max' setting without using any "zoom" features.
- The BWC will allow 5 photos to be taken before requiring them to be "Saved" and sent to the network for storage.

- If more than 5 still photos are needed, re-open the camera (thus creating a new incident) and continue with taking additional photos.

Restrictions

Department issued BWC's will not be used to record personnel matters under any circumstances.

During authorized use of PDRD's and/or MDRS's, authorized users will not knowingly:

- create digital recordings in instances where there would be a reasonable expectation of privacy;
- record undercover officers or confidential informants during a known special operation;
- record a minor child, unless the video or voice recording is made during or as part of a law enforcement investigation, during or as a part of a forensic interview in a criminal or child protective services investigation, or as otherwise consented to by the minor child's parent. Authorized users may record on the ground of any public, private, or parochial, elementary, middle, or high or secondary school, so long as otherwise consistent with this policy. Such recording must be in accordance with JCSO PP 724 'Juveniles' [\[LINK\]](#);
- create digital recordings to gather intelligence information based on the First Amendment protected speech, associations, religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between an authorized user and a member of the public;
- allow citizens to review the recordings in the field unless reasonably necessary for an ongoing investigation (*Note: Citizens who want to view recordings may make a public records request. A copy may be provided in accordance with the Colorado Criminal Justice Records Act*);
- record discussion with other employees about case tactics or strategy, either before enforcement action is taken or after the scene is stabilized;
- record a critical incident debriefing;
- record daily briefings;
- record while attending or testifying during civil or criminal court proceedings;
- record patients during medical treatment or psychological evaluations by a clinician or similar professional except:
 - to record the statements and physical conditions in the hospital setting of individuals relative to an on-going investigation and in accordance with the individual's rights;
 - during times when all parties being visibly or audibly recorded are in a private room with consent for such recording;
 - while affecting an arrest;
 - while controlling a person through response to resistance techniques; or
 - any other circumstances that are extraordinary.

Review of Digital Evidence

Investigating employees may review all digital media captured during an incident or event:

- to assist with the investigation and completion of reports
- for training purposes
- before testifying

Following the use of deadly physical force, sheriff's office personnel are not authorized to view the video recording until after the involved employees' initial interview with the Critical Incident Response Team (CIRT). The on-duty supervisor will take the BWC device from the employee and hold onto it until CIRT interviews are completed. Additional interviews to clarify information may be conducted after the involved deputy has reviewed the video.

Supervisors and managers may review digital evidence for the purpose of conducting minor complaint investigations and employee performance reviews. Recordings that are subject to, or potentially evidence in, an administrative investigation will not be reviewed by any member unless authorized by the Administrative Investigations Unit lieutenant. Department heads and Administrative Investigations Unit personnel may review digital evidence for the purpose of an internal administrative investigation. Only those sheriff's office members acting under their official duties will be permitted access to recordings and/or images.

Audit of Recordings

The Administrative Investigations Unit will inspect and/or audit random samplings of recordings to ensure policy and procedures are being followed on a quarterly basis. Documented audits will focus on the following areas:

- whether equipment is functioning properly;
- whether employees are using the equipment as intended and in line with policy; and
- to identify any training needs.

Storage, Retention and Release of Digital Evidence

All digital evidence captured during the scope of an authorized employee's duties, whether on department issued, assigned or personally owned devices, is the property of the Jefferson County Sheriff's Office.

All digital recordings and still photographs will be uploaded by authorized means into an approved storage software at the end of each shift, or if not possible, as soon as is practicable with supervisor approval. Digital evidence will not be altered, accessed, copied, edited or released without prior approval from the sheriff or designee, or as permitted by law.

Storage and Retention of Digital Evidence

All recordings/photographs will be coded as outlined below and kept in accordance with the approved Jefferson County Records Retention Schedule.

BWC / ICVS recordings will be categorized as follows:

Non-Event/Incident-Only

All recordings that do not generate a case report will be coded as non-event/incident-only and will be automatically purged after ninety (90) days. If a recording captures something of a personal or private nature (i.e. accidental recording while using the restroom), the employee who created the recording may code the recording as confidential, which will prompt a request for approval by a supervisor and the Video Evidence Technician to restrict access to the recording so that viewing is restricted while the recording exists in the system.

Non-Criminal Case Report

All recordings that generate a case report that is non-criminal in nature, such as welfare checks, will be coded as a non-criminal case report and will be automatically purged after two (2) years.

Evidence

All recordings/photographs that are evidence in a criminal case will be coded as permanent and will be purged from the system when the Evidence Vault disposes of other evidence related to the case.

Dissemination/Release of Digital Recordings

Recordings and photographs captured during the scope of authorized users duties, whether on department approved or unapproved privately owned devices, may be subject to release pursuant to the Colorado Criminal Justice Records Act. Exemptions from disclosure are the same as for any other departmental record. The sheriff will designate the person or unit responsible for reviewing the digital evidence and determining whether any portion needs to be redacted prior to release. The assessment of reasonable fees not to exceed actual costs, including but not limited to personnel and equipment, for the search, retrieval, and redaction of criminal justice records will be determined by the Records Unit manager.

Dissemination/release of digital evidence will be allowed only under the following circumstances:

- for criminal justice purposes;
- for training purposes, only when approved by a division chief;
- pursuant to a public records request;
- pursuant to subpoena or court order; and
- for actual or potential civil litigation.

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