

Portable Audio/Video Recorders

424.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by officers of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand-held or integrated into portable equipment (42 Pa.C.S. § 67A07).

This policy does not apply to custodial interrogations conducted at any Plymouth Township Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices). See the Investigations and Prosecution Policy for additional information.

Data captured by recording systems are considered CJI and shall be handled in accordance with CJIS Policy, CHRIA and Commonwealth Law Enforcement Assistance Network (CLEAN) regulations.

424.1.1 DEFINITIONS

Definitions related to this policy include:

Digital Evidence Administrator - Personnel certified or trained in the operational use of recording systems, duplicating methods and storage and retrieval methods and who have a working knowledge of video/audio forensics and evidentiary procedures.

Digital Evidence Custodian - Personnel responsible for the collection, storage, and release of audio/video evidence.

Digital Evidence Technician - Personnel certified or trained in the repair of audio/video systems.

Portable Audio/Video Recorders - May be referred to throughout this policy and the related procedures as Body Worn Camera or BWC.

424.2 POLICY

The Plymouth Township Police Department may provide officers with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

424.3 DIGITAL EVIDENCE ADMINISTRATOR

The Chief of Police or the authorized designee should designate a Digital Evidence Administrator responsible for (42 Pa.C.S. § 67A07):

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.

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- (a) Storage shall comply with Pennsylvania State Police standards (18 Pa.C.S. § 5706).
- (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 procedures for the use of facial recognition software or programs (42 Pa.C.S. § 67A07).
- (f) Approving recording devices for use by members based on Pennsylvania State Police standards (18 Pa.C.S. § 5706).
- (g) Ensure users are assigned the appropriate level of access.

424.4 MEMBER PRIVACY EXPECTATION

All recordings made by officers on any department-issued device at any time, and any recording made while acting in an official capacity of this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Personnel shall have no expectation of privacy or ownership interest in the content of these recordings.

424.5 OFFICER RESPONSIBILITIES

Prior to going into service, each uniformed officer of designated units will be responsible for making sure that he/she is equipped with a portable recorder, issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or the officer becomes aware of a malfunction at any time, the officer shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed officers shall wear the recorder in a conspicuous manner and should notify persons that they are being recorded, whenever reasonably practicable.

Portable recording devices shall not be worn by non-uniformed officers unless authorized by the Chief of Police or designee. If authorized, the non-uniformed officer shall be clearly identified as a police officer and comply with all other aspects of this policy. Non-uniformed officers shall notify persons that they are being recorded, as soon as reasonably practicable.

Officers shall document any instance where the recorder malfunctioned, a recording was not made or the officer deactivated the recording in a report or other official record of the contact. Absent a legitimate exigency, officers shall obtain supervisor permission before any discretionary (e.g. witness refusing to be recorded) deactivation occurs and include the reason for the deactivation in the report.

If available, officers shall wear a recorder on all police overtime assignments where a uniformed officer is assigned to a designated unit. If available, uniformed officers on an overtime detail not

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assigned to a designated unit shall check in with an on duty supervisor and equip themselves with a portable recorder and comply with the provisions of this policy.

At the end of each shift, assignment, or detail, officers utilizing body-worn recording equipment will place their assigned equipment into the appropriate docking station. The recording system shall not be removed from the docking station/connection until the data has been fully uploaded.

Officers shall ensure the portable recording device is physically secure by wearing the device or upon removal promptly returning it to the docking station.

Officers should properly tag all recordings to create the appropriate retention period and ensure that all related recordings are linked to a specific case. Officers shall notify their supervisor anytime a recording(s) requires a longer retention and or a preserved copy.

424.5.1 SUPERVISOR RESPONSIBILITIES

At least on a monthly basis, supervisors will randomly review recordings to ensure that the equipment is operating properly and that officers are using the devices appropriately and in accordance with policy and to identify any areas in which additional training or guidance is required. Review of recordings by supervisors will not be done solely for the purpose of searching for minor disciplinary violations. A minor disciplinary violation includes any unsatisfactory conduct that is handled with counseling, oral or written reprimand.

Supervisors shall also:

- (a) Ensure that officers are equipped with portable recording devices and utilize them in accordance with this policy.
- (b) Periodically review recordings to ensure that the MVR equipment is being properly worn and used and to identify material that may be appropriate for training.
- (c) Immediately notify their commanding officer when unauthorized use of the system is discovered.
- (d) Be responsible for ensuring that all personnel assigned to their unit, including themselves, have uploaded their recordings on a regular basis.
- (e) Conduct periodic, random inspections of recording systems to confirm they are in proper working order and notify the proper personnel of any repairs necessary to faulty recording systems.
- (f) Ensure that officers are properly tagging recordings and creating cases, if appropriate.

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424.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Officers should activate the recorder any time the officer believes it would be appropriate or valuable to record an incident and it is not otherwise prohibited.

Officers shall activate the recorder at the initiation of a call for service or an encounter between the officer and a member of the public or other activity that is investigative or enforcement in nature (e.g. traffic stops, arrests, pursuits, interviewing and obtaining statements, etc.) unless doing so would be unsafe, impossible, or impractical to do so.

The recorder shall only be activated while at the station when taking complaints, reports, during a use of force incident or the rendering of aid. The recorder may also be activated at the station during testing of equipment.

Officers should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the Officer that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording. In such cases and absent a documented exigency, officers shall obtain approval from a supervisor prior to deactivating the recorder.

At no time is an officer expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder shall be activated in situations described above as soon as reasonably practicable or if ordered by a supervisor.

424.6.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident. Absent a documented exigency, officers shall obtain supervisor approval prior to deactivation of the recorder.

424.6.2 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

Officers shall not intentionally create an impression or otherwise lead someone to believe they are not being recorded when the Officer is actually recording. Officers shall not surreptitiously record without a court order lawfully authorized by the Chief of Police or the authorized designee. Refer to 18 Pa.C.S. § 57 or the Attorney Generals Office for surreptitious recordings.

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424.7 PROHIBITED USE OF PORTABLE RECORDERS

Personnel are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in an official capacity.

Personnel are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created or duplicated with department-issued or personally owned recorders. Personnel shall not duplicate or distribute such recordings, except for authorized legitimate department law enforcement purposes and in accordance with policy. All such recordings shall be retained at the Department.

Personnel are prohibited from using personally owned recording devices while on-duty.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

Officers should turn off the recorder during personal use of the rest room or in a locker room. Upon exiting Officers shall turn the recorder back on and put it in stand-by mode.

424.7.1 USE OF PORTABLE RECORDERS IN COURTROOMS

An officer should not activate a portable audio/video recorder in a courtroom during judicial proceedings except when the officer reasonably believes there is an actual or imminent emergency warranting activation while on-duty or while acting in an official capacity (201 Pa. Code Rule 1910).

Officers who activate a recorder in a courtroom shall notify the presiding judge as soon as practicable and within one business day provide a written report to the presiding judge and a supervisor. The report should include (201 Pa. Code Rule 1910):

- (a) The circumstances surrounding the activation.
- (b) The times of activation and deactivation.
- (c) An explanation of the officer's actions.

Any use or dissemination of the recording is prohibited without the written approval of the president judge of the court.

424.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, officers should tag or mark these in accordance with procedure.

After de-activation the officer will label the recording with the report number, if applicable, and the appropriate retention tag.

If the recording is related to a potential prosecution or litigation a case should be created, to ensure preservation of the evidence.

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424.9 RETENTION OF RECORDINGS

All recordings shall be stored for 60 days unless needed for prosecution, courts, or litigation. Recordings that are stored beyond the minimum retention period should be tagged appropriately by the case officer. The Digital Evidence Custodian shall destroy all stored recordings in compliance with CJIS Policy. The Digital Evidence Administrator will supervise the destruction of all stored recordings. A Lieutenant may authorize a secure copy to protect any recording scheduled for destruction, to fulfill the requirements for a lawful request for a recording, and for any other administrative purposes.

424.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

424.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, officers may review their recordings as a resource. However, officers shall not retain personal copies of recordings. Officers should not use the fact that a recording was made as a reason to write a less detailed report. The Chief of Police or designee has the authority to limit or restrict any officer from viewing video. Any such restrictions shall be documented and kept on file. Review of recorded media files shall only be done on a department-approved device. All digital recordings are the property of the Department. Dissemination or viewing of the digital recordings outside of this Department is strictly prohibited, except to the extent permitted or required by law and consistent with this policy.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct, whenever such recordings would be beneficial in reviewing an officer's performance or for training purposes.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

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All recordings should be reviewed by the Open-Records Officer prior to public release (see the Records Maintenance and Release Policy).

Recordings that involve a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Chief of Police or designee. Deletions will be in accordance with state laws. All requests and final decisions shall be kept on file.

424.11 TRAINING

Personnel who use audio or video recording devices shall receive initial training on the operation of audio/video recording devices and this policy and should receive fresher training, as needed (42 Pa.C.S. § 67A07).