

Portable Audio/Video Recorders

425.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of the office while in the performance of their duties (Md. Code CJ § 10-402; Md. Code PS § 3-511). Portable audio/video recording devices include all recording systems whether body-worn, hand-held, or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any St. Mary's County Sheriff's Office facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

425.2 POLICY

The St. Mary's County Sheriff's Office shall provide members 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 Office by accurately capturing contacts between members of the Office and the public (Md. Code PS § 3-511).

425.3 COORDINATOR

The Sheriff or the authorized designee shall designate a coordinator responsible for (Md. Code PS § 3-511):

- (a) Establishing procedures for the security, storage, and maintenance of data and recordings.
- (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) Addressing any other requirements of the Maryland Police Training and Standards Commission (MPTSC) model body-worn camera policy.

425.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any office-issued device at any time, and any recording made while acting in an official capacity of this office, regardless of ownership of the device it was made on, shall remain the property of the Office (Md. Code PS § 3-511). Members shall have no expectation of privacy or ownership interest in the content of these recordings.

425.5 MEMBER RESPONSIBILITIES

All sworn deputies within the Office of the Sheriff will be issued and utilize a body-worn camera.

All deputies who regularly interact with the public as part of their duties shall use a body-worn camera in a manner consistent with office policy/procedure and state law (Md. Code PS § 3-511).

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Prior to going into service, uniformed members will be responsible for making sure that they are equipped with a portable recorder issued by the Office, and that the recorder is in good working order. If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to the member's supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable (Md. Code CJ § 10-402; Md. Code PS § 3-511).

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful and may use it in compliance with the law (Md. Code CJ § 10-402; Md. Code PS § 3-511). Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Members of the Emergency Services Team (EST) are issued a helmet-mounted camera system. These systems are to be used for EST operations and training events and are not a replacement for the standard body-worn camera system normally assigned to uniformed members of the agency.

When using a portable recorder, the assigned member shall record the member's name, SMCSO identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members will document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

Deputies will not, in any manner, attempt to modify, alter, erase, or tamper with any portion of recorded video. This includes the intentional placement or obstruction of the portable audio video recorder where the focal point of the video is obstructed.

For procedures related to Member Responsibilities, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Responsibilities](#)

425.6 ACTIVATION OF THE PORTABLE RECORDER

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

The portable recorder shall be activated in any of the following situations (Md. Code PS § 3-511):

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- (a) All enforcement and investigative contacts including stops and field interview situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify Emergency Communications Center
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members 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 member 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.

At no time is a member expected to jeopardize the member's safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

Body-worn cameras possessing the capability shall be set to automatically record and save video footage at least 60 seconds prior to activation (Md. Code PS § 3-511).

For procedures related to Activation of the Portable Recorder, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Authorized Use](#)

425.6.1 CONSENT REQUIRED FOR ACTIVATION OF THE PORTABLE RECORDER

Generally, members are required to first obtain the consent of all parties prior to recording. However, prior consent is not required when (Md. Code CJ § 10-402; (Md. Code PS § 3-511):

- (a) The member is a party to the conversation and:
 - 1. The recording is in the course of an investigation of one of the offenses listed in Md. Code CJ § 10-402.
 - 2. The person has created a barricade situation and there is probable cause to believe a hostage may be involved.
- (b) The member has detained a vehicle during a criminal investigation or for a traffic violation and:
 - 1. The member identifies themselves as a law enforcement officer.
 - 2. The member is a party to the conversation.
 - 3. The member informs all other parties of the recording.
 - 4. The recording is made as part of a video recording.
- (c) The member is in uniform or prominently displaying a badge or other office insignia, indicating the member is a law enforcement officer and:

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1. The member is a party to the communication.
2. The member is engaged in his/her regular duties as a law enforcement officer.
3. All involved parties are notified that they are being recorded as soon as it is safe and practical.
4. The audio recording is being made as part of a video recording.

If another individual becomes a party to the communication after the initial notification has been provided, the initial notification is sufficient and subsequent notifications are not necessary. (PS 3-511(15))

For procedures related to Consent Required for Activation of the Portable Recorder, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Notification - Hearing Impaired](#)

425.6.2 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes that their 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 (Md. Code PS § 3-511).

For procedures related to Cessation of Recording, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Ending a Recording](#)

425.6.3 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Maryland law prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation is private or confidential. However, Maryland law exempts members from some of this prohibition during the course of their regular duties pursuant to Md. Code CJ § 10-402. Nothing in this section is intended to interfere with a member's right to openly record during any investigation or interrogation pursuant to Md. Code CJ § 10-402 or Md. Code CP § 2-402.

Members shall not surreptitiously record another office member without a court order unless lawfully authorized by the Sheriff or the authorized designee (Md. Code PS § 3-511).

425.6.4 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

425.7 AXON RESPOND

Axon Respond is a web-based application that allows authorized users to see the approximate location of BWCs that are in a powered-on state. Axon Respond Plus is a function that allows authorized users to live stream BWC's that are in a recording mode. All deputies will have the ability to utilize the Axon Respond feature and see BWC locations. Deputies with the rank of Sergeant or above will be authorized to utilize the Axon Respond Plus feature.

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Axon Respond Plus will be utilized in situations where officer safety is a concern or if a supervisor has an urgent need to view a situation. Respond Plus will not be used randomly or with the intent to initiate a complaint against deputies.

When a supervisor accesses the Axon Respond Plus live stream feature, the BWC user is notified via haptic feedback on the device, a unique audio tone and an LED light change.

425.8 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using office-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 their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with office-issued or personally-owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office.

Members are prohibited from using personally-owned recording devices while on-duty without the express consent of the Shift Supervisor. Any member who uses a personally-owned recorder for office-related activities shall comply with the provisions of this policy, including retention and release requirements.

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

425.9 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member shall transfer, tag or mark recordings, prior to the end of the shift, when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

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Confidentiality:

Only portable recorders owned and approved by the St. Mary's County Sheriff's Office are authorized for use, and all recordings are the property of the agency. Except as authorized by agency policy, copying, releasing, altering, erasing, or allowing unauthorized viewing of an agency video recording (or portion thereof) is prohibited and will subject the deputy sheriff to disciplinary action.

425.10 RETENTION OF RECORDINGS

Data stored on the video server and classified as evidence, or any applicable evidentiary classification will continue to be held indefinitely. Any data classified as non-evidence will be retained for 365 days from the date of the recording.

For procedures related to Retention of Recordings, see the St. Mary's County Sheriff's Office LE Procedures Manual: [421.5 Review, Retention, and Storage of BWC Recordings](#)

425.10.1 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 (Md. Code PS § 3-511).

For procedures related to Release of Audio/Video Recordings, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Video Data Duplication](#)

425.11 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource. (See the Officer-Involved Shootings and Deaths Policy for guidance in those cases.) However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed (Md. Code PS § 3-511):

- (a) Upon approval by a supervisor, by any member of the Office 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 Sheriff or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.
- (e) For training purposes, with permission of the Division Commander or designee.

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- (f) By Field Training Officers (FTOs) to review actions of the probationary officers participating in the Field Training Program.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

For procedures related to Review of Recorded Media Files, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Internal Use of Recordings](#)

425.11.1 PROHIBITED USES

Recordings should not be used (Md. Code PS § 3-511):

- (a) To identify persons present at public gatherings who are not suspected of being engaged in illegal activity or in need of assistance.
- (b) To create a database or pool of mug shots.
- (c) As fillers in photo arrays.

Recordings shall not be searched with facial or voice recognition software unless a deputy has reason to believe that a specific suspect or person in need of assistance may appear in the recording.

425.12 POSTING OF POLICY

A copy of this policy should be made available to the public on the office website and upon request (Md. Code PS § 3-511).

425.13 TRAINING

Members will receive initial training on the operation of body-worn cameras as well as this policy prior to the issuance and use of a body-worn camera in the field. Training should include methods of providing notice that a recording is being made to persons with limited English proficiency or persons with a disability that renders them otherwise unable to understand (see the Limited English Proficiency Services and Communications with Persons with Disabilities policies) (Md. Code PS § 3-511).