

# 450 SONOMA COUNTY SHERIFF'S OFFICE

## Policy Manual

### Use of Personal Recording Devices

#### 450.1 PURPOSE AND SCOPE

The Sonoma County Sheriff's Office provides its Law Enforcement Division Deputies with access to personal video recorders (hereinafter referred to as PVR) for use while on duty. PVR's are intended to assist deputies in the performance of their duties by providing an audio or video record of a law enforcement contact. This policy is intended to address the use of the PVR's, and the disclosure of digital media files, with respect to law enforcement contacts outside the jail; this policy does not apply in the jail context.

This policy does not apply to surreptitious interception of electronic communications for lawful authorized investigative purposes.

#### 450.2 MEMBER RESPONSIBILITIES

Prior to going into service, each member will be responsible for making sure that he/she is equipped with a PVR, issued by the Department, and that the recorder is in good working order. Uniformed members should wear the recorder in a conspicuous manner.

Any member assigned to a non-uniformed position may carry an approved PVR at any time the member believes that such a device may be useful.

#### 450.3 ACTIVATION OF THE PERSONAL VIDEO RECORDERS

Generally, Penal Code § 632 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, Penal Code §§ 630 and 633 expressly exempts law enforcement from this prohibition if deputies are engaged in their official duties.

- (a) Deputies may surreptitiously record any contact made during performance of their official duties if they reasonably believe that such a recording will be beneficial for law enforcement, investigation, prosecution, or liability purposes.
- (b) The Department expects deputies to activate their recorders during citizen contacts related to a call for service, enforcement action, or potentially hostile encounter. Deputies are not required to activate their recorders when responding to "cold" status reports (i.e. 488 PC); unless the deputy believes it is necessary for investigative purposes or the contact becomes hostile. Once activated, the deputy can deactivate their recorder anytime they believe the use of the recorder is no longer necessary for evidentiary, confidential, or investigatory purposes. Additionally, deputies should consider recording tactical activities such as building searches, searches for suspects, and building checks at alarms.
  1. At no time should a Deputy jeopardize their safety in order to activate a recorder.

2. Absent a court order or other legal cause, no member of the Sheriff's Office may surreptitiously record any other member of the Office without the express knowledge and consent of all affected members.
3. Members are prohibited from using Sheriff's Office digital media recorders for their personal use.

#### **450.4 RETENTION OF RECORDINGS RELATED TO CRIMINAL MATTERS**

Any time a Deputy records any portion of a contact with a member of the public which the Deputy reasonably believes constitutes evidence in a criminal case, the Deputy shall book the recording into evidence. Upon downloading the PVR into the camera's case management system, the deputy shall check the box "never delete the video" and enter the case number in the comments box.

- (a) The Deputy shall state in their report that the digital media file has been placed into evidence on the digital media server.
- (b) Digital media files placed into evidence shall be retained for a minimum of 3 years or until the final disposition of the related criminal case, whichever is later.

#### **450.5 RETENTION OF DIGITAL MEDIA FILES RELATED TO NON-CRIMINAL MATTERS**

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

Members should upload the file, in accordance with current procedure for storing digital files, at the end of their shift and any time the storage capacity of the PVR is nearing its limit.

- (a) All non-criminal related recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule, but not less than 1 year.

#### **450.6 REVIEW AND RELEASE OF RECORDED MEDIA FILES**

Digital media files shall be retained as confidential, and shall not be disclosed, copied, or released to any person or entity not expressly entitled to such release under this policy. Disclosure of digital media files is warranted only for law enforcement purposes or if reasonably necessary to perform other functions of the County. Accordingly, digital media files may only be disclosed to the following persons under the stated conditions:

- (a) Supervisors investigating a specific act of Deputy conduct.
- (b) Upon approval by a supervisor, any member of the Sheriff's Office who is participating in an official investigation or prosecution (e.g., a personnel complaint, administrative investigation, or criminal case).

- (c) Potential witnesses in the related criminal case, if such disclosure is made by an investigator as part of the official investigation or prosecution.
- (d) Members of the District Attorney's Office otherwise authorized to review evidence in the related criminal case.
- (e) Members of the County Counsel's Office involved in reviewing a related civil claim or case.
- (f) The Deputy who originally recorded the contact in order to prepare written reports.
- (g) Persons expressly authorized by lawful process, such as a Court order, to review or receive a copy of the digital media file.
- (h) Persons (including members of other law enforcement agencies or members of the public) who have received the express permission of the Sheriff or authorized designee to review or receive a copy of the digital media file.
- (g) In the event of a Deputy Involved Shooting the personal video footage will be made available to the Deputy and his/her representative, without sound, prior to any statement being made.

*Deputies should be mindful that video recordings have limitations and may depict events differently than the events recalled by an Involved Deputy.*

- 1. Video has a limited field of view and may not capture events normally seen by the human eye.*
- 2. The camera's frame rate may limit the ability to capture movements normally seen by the human eye.*
- 3. Lighting in the video may be different than seen by the human eye.*
- 4. Video is two-dimensional and may not capture depth, distance, or positional orientation as well as the human eye.*
- 5. Remember, the video evidence is intended to assist the deputy's memory and ensure the deputy's initial statement explains their state of mind at the time of the incident.*