

**COMMERCE CITY POLICE DEPARTMENT
GENERAL ORDER**

Date:	June 27, 2016, 2016
Approval:	Lowell Richardson; Chief of Police
Subject:	PORTABLE AUDIO/VIDEO RECORDERS GO#16-009

PORTABLE AUDIO/VIDEO RECORDER

450.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members 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.

This policy does not apply to lawful surreptitious audio/video recording, interception of communications for authorized investigative purposes.

450.1.1 DEFINITIONS

BUFFERING Mode: The portable video recorder continuously loops a video recording for up to 30 seconds before the recording is started by the officer. While buffering, video only (no audio) is being recorded.

Critical/Major Incident: The definition is deliberately broad and should ensure that potential critical incidents are not missed. It recognizes the fundamental significance of community confidence and trust in the police response to critical incidents. Including any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family and/or the community. Critical incidents include but are not limited to a use of force where serious bodily injury or death is sustained by anyone involved, or determined to be a critical incident by a supervisor.

EVENT Mode: Once activated by pressing the EVENT button, the portable video recorder saves the recorded buffered video and continues to record both audio and video.

Evidence Transfer Manager (ETM): Docking unit used to recharge and upload previously recorded audio and video (stored media) from the portable video recorder. The ETM automatically transfers all stored media to evidence.com.

Evidence.com: An online, cloud-based digital media storage repository. All media is stored in a highly secure environment, accessible only by authorized personnel.

Portable Video Recorder System Administrator: The Support Services Deputy Chief, or their designee, is the portable recording system administrator and they will maintain the integrity and efficiency of the data management and file retention systems.

450.2 POLICY

The Department may 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 Department, and promote greater transparency and accountability, by accurately capturing contacts between members of the Department and the public, as well as increasing public and member safety during such contacts.

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

450.3 MEMBER PRIVACY EXPECTATIONS

All recordings made by members acting in an official capacity shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

Per City Policy 6.3 (18) Recording communications with another employee without that employee's knowledge and consent, except for meetings for which a transcript is required or customarily kept or where the recording is made in accordance with supervisory responsibilities.

450.4 MEMBER RESPONSIBILITIES

If a member is issued a portable recorder by the Department, the member shall, prior to the start of his or her shift, ensure that he/ she is in possession of the issued recorder and that the recorder is in good working order. If the recorder is not in working order or malfunctions at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable. Members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever possible.

The following members are required to be equipped with a portable video recorder prior to going into service:

1. Officers and Sergeants assigned to Patrol
2. Officers and Sergeants assigned to the Traffic Unit
3. Officers and Sergeants assigned as a School Resource Officer
4. Officers assigned to Crime Prevention
5. Community Service Officers
6. Any members engaging in off duty assignments shall adhere to this policy while fulfilling the off duty obligation in any capacity for the department

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.

Portable video recorders should be turned off while inside the police department unless the member is in contact with a prisoner, witness, reporting party, victim, or suspect of a crime. While in the field, all members shall place the portable video recorder in buffering mode.

Assigned member(s) shall record his/her name, CCPD 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

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software captures the user's unique identification and the date and time of each recording. Members shall 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 shall include the reason for deactivation.

450.5 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 should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder shall be activated at the inception of any of the following situations:

- (a) All enforcement and investigative contacts including calls for service, stops and field interview (FI) 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 Dispatch and a member is likely to come into contact with the public for a law enforcement purpose.
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- (e) Anytime a person other than a ride along is being transported. Members should keep in mind that any interference such as radio traffic, music or other noises may prohibit the BWC microphone from collecting spontaneous statements made by the person being transported.
- (f) Additional arriving enforcement members that are equipped with BWC should activate their cameras and begin recording the situation upon their arrival until the member leaves the scene.
- (g) To assist in documenting warrantless or consensual searches of individuals, vehicles, buildings and other places:
 - 1. The portable recorder will be utilized to record the request and consent. This recording is intended to enhance a documented consent. It is not intended to replace the use of the Consent to Search Form.
- (h) The portable recorder can be used to record the search itself.

1. To assist in documenting an individual's Miranda Advisement, the portable recorder will be utilized to record the advisement and the subject's responses when practical. This recording is intended to enhance a documented consent. It is not intended to replace the use of an Advisement/Waiver form.

At no time is a member expected to jeopardize his/her 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 practicable.

450.5.1 CESSATION OF RECORDING

Once activated, the portable recorder shall remain on continuously until the member's direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recordings may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

During consensual encounters in locations where members of the public have a reasonable expectation of privacy, such as a residence, an enforcement member shall notify members of the public that they are recording the encounter. If the member of the public requests the recording be discontinued the enforcement member should immediately discontinue use of the portable recorder.

Recordings made pursuant to an arrest or a search of a residence or person(s) pursuant to a warrant or subject to a lawful exception thereto, or in an exigent circumstance is not considered a consensual encounter for the purposes of this policy. The portable recorder should remain activated until the event is completed in order to ensure the integrity of the recording.

When interacting with an apparent crime victim, the member should, as soon as feasible, ask the apparent crime victim, if they want the member to discontinue use of the portable recorder. If the apparent crime victim responds affirmatively, the member should immediately discontinue use of the portable recorder. Interactions between victim services and a victim or witness should not be recorded.

When interacting with a person seeking to anonymously report a crime or assist in ongoing law enforcement investigation, a member should, as soon as feasible, ask the person if they would like to remain anonymous and, if the person responds affirmatively, the member should immediately discontinue use of the portable recorder.

All member offers to discontinue the use of the portable recorder, and the responses thereto, should be recorded by the BWC prior to discontinuing the use of the portable recorder.

Deliberative process conversations involving only law enforcement personnel, which include but are not limited to discussions on charging decisions, and comparing witness accounts, should not be recorded.

450.5.2 EXPLOSIVE DEVICE

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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.

450.6 PROHIBITED USE OF PORTABLE RECORDERS

Members 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 their official capacity.

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

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

Portable recorders shall not be used to gather intelligence information based on First Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a member and a member of the public.

Audio or video recording devices shall not be used in Department locker rooms, restrooms or any other intimate places where there would be a reasonable expectation of privacy.

Members shall not intentionally record confidential informants or undercover officers unless the recording is conducted specifically for the purpose of documenting an operation, drug purchase/sale or other undercover operation in furtherance of a criminal investigation.

The portable recorder should not be activated while on the grounds of any public, private or parochial elementary or secondary school, or inside a medical treatment facility, including ambulances, except for the following exceptions:

1. During times when all parties being visibly or audibly recorded are in a private room with consent for such recording;
2. While affecting an arrest;

3. While controlling a person through response to resistance techniques; or

450.7 RETENTION OF RECORDINGS

All recordings will be tagged in accordance with current procedure for storing and retention. Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and transfer the file in accordance with current procedure for storing digital files and document the existence of the recording in the related case report. Transfers should occur at the end of the member's shift, or any time the storage capacity is nearing its limit.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact, an interaction that may lead to a complaint by a member of the public), the member should promptly notify a supervisor of the existence of the recording. The supervisor may extend the retention period for the recorded contact, if necessary.

450.7.1 RETENTION REQUIREMENTS

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 60 days, except in the event of unintentional as outlined in 450.9.

Anytime the category of portable recorder media changes, it is the responsibility of the member assigned the investigation to ensure the proper retention level is assigned to the media.

450.7.2 RETENTION CATEGORY DEFINITIONS

Administrative Review (ADMN) – Any incident that does not meet the criteria for any category other than no action taken and requires an administrative review will be maintained for 90 days. The Professional Standards Commander, or his designee, is responsible for changing the category or extending the retention period if necessary.

Evidence (EVID) – Any offense where prosecution is likely or has been initiated will be retained for the life of the case and until proper authorization for disposition of the evidence has been received.

Felony 10 years (FTEN) – Vehicular homicide and leaving the scene of the accident in the same criminal episode shall be retained for 10 years when no suspect has pending prosecution.

Felony 5 years (FEL5) – Vehicular homicide or leaving the scene of an accident that resulted in the death of a person shall be retained for 5 years when no suspect has pending prosecution.

Felony no limit (FNOL) – Murder, Sex Offense on a Child, Kidnapping, Treason, and Forgery shall be retained permanently whether completed, attempted, conspiracy, or solicitation applies when no suspect has pending prosecution.

Felony other (FEL3) – All other felonies not included in another retention category definition shall be retained for 3 years when no suspect has pending prosecution.

Fugitive of Justice Arrest (FOJA) – Any arrest of a fugitive of justice with no additional charges will be retained for 1 year.

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Major/Critical Incident (CRIT) – All incidents determined to be a major or critical incident by any supervisor will be maintained permanently or until the category is authorized to be changed by a Commander. Major/Critical incident media will be restricted to personnel that are actively involved in the incident.

Misdemeanor, Petty Offense, Municipal Ordinance Violations (MNOS) – All violations in this category shall be retained for 18 months when no suspect has pending prosecution.

No Action Taken (NACT) – Contacts resulting in a warning, calls for service where no crime occurred or action is taken, or any other incident where no administrative review will occur will be retained for 60 days.

Restricted (REST) – Any media that contains sensitive information that should remain confidential, if the sensitive information cannot be redacted. Any member or supervisor may determine that this category should be utilized. A memo submitted through the member’s chain of command to the Portable Recorder Administrator shall be completed explaining the need to restrict the media. All efforts should be taken to make videos of interest to the public available to the public while also protecting individual privacy. Restricted media will be retained permanently, or until the category is authorized to be changed by a Commander, or meets the criteria established in 450.9 Deletion of Unintentional Recording.

Traffic Citation/Summons (SUMM) – All traffic citations will be retained for 180 days unless an request for extension is received by the prosecuting authority.

Training (TRNG) – Any training exercises will be maintained for 30 days.

Transport (TRAN) – Anytime a person is transported in a vehicle and no other category except any action taken applies, will be retained for 1 year.

450.8 REVIEW OF RECORDINGS

If a member is involved in (or a witness to) an incident that any policy requires an administrative review or is suspected of wrongdoing, the member shall not review any recordings of the incident until the member has completed an initial report or received the approval of a supervisor. This includes, but is not limited to:

- (a) Officer Involved Shootings or any other incident that will be investigated by the Adams County Critical Incident Team.
- (b) Any motor vehicle accident that will be investigated by the Adams County Accident Investigation Team.
- (c) Use of Force
- (d) Motor vehicle accident

- (e) Pursuit
- (f) Employee Injury
- (g) Citizen Inquiry or complaint of officer misconduct
- (h) Self-Inflicted Injury

When preparing written reports, members should review their recordings as a resource. Members may only review recordings from their assigned portable recorder. 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:

- (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.

450.9 DELETION OF UNINTENTIONAL RECORDING

In the event of an unintentional activation of the portable recording system during a non-enforcement or non-investigative activity, including but not limited to, restroom, meal break, or other areas where a reasonable expectation of privacy exists, members may request the recording to be deleted. A memorandum detailing the circumstances of the unintentional recording will be forwarded via the chain of command to the Chief of Police. If approved, the actual deletion requires two-party authorization. One of those parties will be the Chief of Police or designee and the other party will be an Evidence Section supervisor (Department Portable Recorder Administrator).

450.10 MEMBER RESPONSIBILITIES

- (a) Members will not use a portable video recorder or evidence.com until they have successfully completed the required training.
- (b) Members will ensure the following when assigned a portable video recorder at the beginning of each shift:
 1. The portable video recorder will be properly affixed upon the member's outer most layer of uniform with a department approved mount. Any modification to the mount is prohibited.

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2. Each member will ensure their portable video recorder is positioned correctly and verify the camera position by use of the viewer.
 3. The portable video recorder will be worn for the entire shift.
 4. Under normal operations, the portable video recorder's audible alert signal must remain in the ON position. The audible alert signal may be muted for tactical situations; however, the audible alert signal must be immediately reactivated at the conclusion of the tactical portion of the incident.
 5. In order to record all situations required by this policy, the member must maintain the portable video recorder in a constant state of operational readiness. Operational readiness means the portable video recorder has adequate battery life, available storage, remains properly affixed to the member's uniform, and is set to buffering mode.
- (c) Members will document the use of the portable video recorder within all reports and citations.
- (d) Officers will appropriately tag each recorded video.
- (e) Prior to going off duty, members will place the portable video recorder into the Evidence Transfer Manager (ETM) for charging and uploading of all stored media to evidence.com. The portable video recorder will not be removed from the ETM until the media has been fully uploaded and the battery is full recharged.

450.11 INVESTIGATOR RESPONSIBILITIES

- (a) Investigators will not use the portable video recorder system or evidence.com until they have successfully completed the required training.
- (b) When assigned a case for investigation, the assigned investigator will:
1. Determine the identity of all involved members.
 2. Search evidence.com for any associated media, using multiple search parameters in order to verify that they have located all relevant files.
 3. Create a digital media file folder within evidence.com. The investigator will add all relevant/associated media into the folder.
 4. Verify the accuracy of the category section, ensuring all media is properly categorized. If the category is incorrect, the investigator is responsible for entering the correct category.
 5. View all applicable portable video recorder media and notate in their supplemental report that portable video recorder media does exist.

450.12 SUPERVISOR RESPONSIBILITY

- (a) Supervisors will not use the portable video recorder system or evidence.com until they have successfully completed the required training.

- (b) When an incident arises that requires the immediate retrieval of portable video recorder media for chain of custody purposes (including but not limited to: serious crime scenes, officer involved shootings, critical incidents or other incidents as determined by policy/supervision) a supervisor will respond to the scene and ensure the portable video recorder remains affixed to the member in the manner it was found and that the portable video recorder data remains uncompromised. Through direct and uninterrupted supervision, the supervisor is responsible for the care and custody of the portable video recorder until it has been removed and secured by the lead investigator.
- (c) Supervisors will be responsible for ensuring that all portable video recorder media is properly categorized.
- (d) Supervisors are required to review portable video recorder media under the following circumstances and/or when the following reports are generated:
 - 1. Any incident that requires an administrative review
 - 2. The supervisor is investigating a specific act of officer conduct
 - 3. The officer has been placed on a performance improvement plan to address identified behavioral or performance deficiencies
 - 4. The supervisor is conducting a random audit of officer performance or in addition to a customer satisfaction survey
 - 5. Requests to review portable video recordings outside of these parameters must be approved by a Commander or higher rank.
 - 6. Nothing included above is meant to limit or restrict the Department's review as part of an official investigation.
- (e) Documentation will include whether the portable video recording media was reviewed and a synopsis of what is contained in the video footage.
- (f) When a supervisor is notified of a malfunctioning camera, the supervisor will ensure that the camera is operational prior to deploying the camera. If the supervisor is unable to deploy the camera, the Portable Video Recorder Administrator will be notified.
- (g) All supervisors with the rank of Sergeant or higher, will have access to view portable video recorder media in evidence.com, except for cases that have restricted access. All viewing of portable video recorder media in evidence.com is documented in an online audit trail.
- (h) Supervisors will ensure that every officer has turned in their assigned Portable video recorder prior to going off duty.

450.13 PORTABLE RECORDER ADMINISTRATOR RESPONSIBILITIES:

The Portable Recorder system will be administered by the Support Services Deputy Chief or their designee. They are responsible for:

- (a) Ensuring that members are trained in the use of the portable recorder system and equipment prior to issuance.
- (b) Ensuring that the portable video equipment meets the standards and requirements of the Commerce City Police Department.
- (c) Providing technical support for malfunctioning portable video recording equipment and facilitate all warranty repairs with the vendor.

450.14 PROPERTY AND EVIDENCE PERSONNEL RESPONSIBILITIES

- (a) Property and Evidence personnel will not use the portable video recorder system or

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evidence.com until they have successfully completed the required training.

(b) Property and Evidence Personnel will be responsible for the following:

1. Evidence Requests submitted by a prosecuting authority.
2. Redacting portable recorder media.
3. Providing portable recorder media to Records staff following an approved open records request.
4. For all media not deleted through assignment of a retention time, the evidence unit will be responsible for disposing of portable recorder media through the normal disposition of physical evidence.

An audit of all portable recorder media to ensure it is categorized and the retention schedule is applied. Any uncategorized media that is identified will require notification of the member and the member's immediate supervisor in writing.