

# KIT CARSON COUNTY SHERIFF POLICY AND PROCEDURES MANUAL

	<b>EFFECTIVE: March 1, 2017</b>	Travis Belden, Sheriff
	<b>REVISED: November 08, 2022</b>	
<b>SUBJECT: Portable Audio/Video Recorders</b> (patrol deputies)		
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## Portable Audio/Video Recorders

### Portable Audio/Video Recorders

#### 168.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this Office while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held, weapon-mounted or integrated into portable equipment.

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

#### 168.2 POLICY

The Kit Carson County Sheriff's Office 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 Office by accurately capturing contacts between members of the Office and the public.

#### 168.3 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, regardless of ownership of the device it was made on, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

#### 168.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is 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 his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the body worn recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable. Weapon-mounted cameras are only recording when the member's firearm is drawn and are visible to persons in a conspicuous manner on the end of the firearm.

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. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the body worn recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable. Weapon-mounted cameras are only recording when a member's firearm is drawn and are visible to persons in a conspicuous manner on the end of the firearm.

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When using a recorder, the assigned member shall record his/her name, KCCSO 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 should 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.

### **168.5 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. Members should activate the body-worn recorder any time the member believes it would be appropriate or valuable to record an incident.

The body-worn recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including 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 deputy would normally notify the Communications Center
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- (e) If in contact with an inmate of the KCC Jail at KCC Jail.

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 his/her safety in order to activate a portable recorder or change the recording media. However, the body-worn recorder should be activated in situations described above as soon as reasonably practicable.

The portable weapon-mounted camera recorder will be automatically activated and recording each time the member draws the firearm from its holster and will automatically continue recording until the firearm is placed back into the holster.

#### **168.5.1 CESSATION OF RECORDING**

Once activated, the body-worn portable recorder should remain on continuously until the member reasonably believe 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.

Cessation of recording of the portable weapon-mounted camera will occur when the member's firearm is placed back in the holster. Policy governing drawing and re-holstering of the firearm should be followed and the member's firearm shall not remain out of the holster for the purpose of recording.

#### **168.5.1A ACTIVATION AND CESSATION OF RECORDING OF THE WEAPON MOUNTED CAMERA**

Weapon-mounted cameras will be automatically activated for recording instantly and automatically upon the member deploying the firearm from the holster or other firearm storage device. Recording of an event will automatically terminate when the firearm is reholstered.

Department policy for unholstering and/or reholstering the member's firearm will dictate the extent of recording rather than any consideration of evidentiary value or other basis to initiate or continue recording an encounter. The officer shall not unholster or leave the firearm unholstered for the purpose of recording an encounter.

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Members shall not draw the firearm from the holster for the sole purpose of recording an encounter. Each draw of the firearm shall be considered a use-of-force incident pursuant to department policy and will be evaluated for propriety under standard department procedure.

### **168.5.2 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER**

Colorado law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (CRS § 18-9-303).

Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another office member without a court order unless lawfully authorized by the Sheriff.

This allowance of surreptitiously recording does not apply to weapon-mounted cameras. A member shall not draw the firearm for the purpose of recording a conversation in any circumstance.

### **168.5.3 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.

### **168.5.4 EXAMPLES**

The recorder should be deactivated when any of the following apply:

- (a) When a crime victim requests not to be recorded
- (b) In situations where medical or patient privacy is warranted
- (c) When on the premises of any public or private elementary or secondary school, unless the member is responding to an imminent threat to life or health where there is potential for enforcement or criminal investigation
- (d) When an individual requests to remain anonymous or is a confidential informant
- (e) When personal information is being relayed that is not case related
- (f) When discussing administrative, tactical or management issues

### **168.6 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 Undersheriff or Sheriff. 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, and should notify the on-duty supervisor of such use as soon as reasonably practicable. Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

### **168.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

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

WMC recordings will only be accessible to the Undersheriff and Patrol Sgt. The Undersheriff or Patrol Sgt will download WMC video when the WMC is activated during an incident. The Undersheriff will perform a monthly check of Staff's WMC to clear misc recordings due to general activation from holster removal ie, cleaning firearm, charging WMC, range training .etc.

A member should transfer, tag or mark recordings 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.

(g) All recordings will be stored for a minimum of 180 days. If the recording is involved in a case and tagged or marked a copy will remain in the case file.

### **168.8 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource. 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:

- (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 Undersheriff.
- (d) In compliance with a public records request, if permitted.

All recordings should be reviewed by the Custodian of Records prior to public release.

### **168.9 RETENTION OF RECORDINGS**

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 180 days. Unless otherwise requested video recordings will be purged after 180 days.



Sheriff Travis Belden