

	MARICOPA COUNTY SHERIFF'S OFFICE	
	POLICY AND PROCEDURES	
	Subject USE OF DIGITAL RECORDING DEVICES (Non Body-Worn Cameras)	Policy Number GJ-36
		Effective Date 04-02-25
Related Information Parents Bill of Rights, A.R.S. § 1-602(9) CP-2, <i>Code of Conduct</i> GC-17, <i>Employee Disciplinary Procedures</i> GD-9, <i>Litigation Initiation, Document Preservation, and Document Production Notices</i> GE-3, <i>Property Management and Evidence Control</i> GJ-35, <i>Body-Worn Cameras</i>	Supersedes GJ-36 (03-07-24)	

PURPOSE

The purpose of this Office Policy is to provide guidelines and procedures regarding the use, storage, and retention of audio, photo, or video recordings made with a digital recording device during investigative or detention activities. Recordings made with body-worn cameras shall be processed, as specified in Office Policy GJ-35, *Body-Worn Cameras*.

Although this Office Policy refers to employees throughout, this Office Policy also applies with equal force to all volunteers. Volunteers include, but not limited to, reserve deputies and posse members.

POLICY

It is the policy of the Office to provide a standardized system and direction for the use, storage, and retention of digital recordings, digital devices, and data collection of digital media during investigations or detention activities.

DEFINITIONS

Course and Scope of Employment: Employee work or actions, whether performed on or off duty, to further the Office's law enforcement responsibilities and goals, as authorized by law, statute, or departmental policies, procedures, rules, and training.

Detention Activities: Actions that are taken within an Office detention facility which includes, but is not limited to, cell extractions, safe cell placements, and safe bed placements.

Digital Media: Audio, photo, and/or video recordings.

Digital Recording Device: A device designed to record, transmit, or receive voice communications, sound, video, or photographic images, including, but not limited to, cellular phones, digital audio recorders, and digital video recorders, excluding Office-issued body-worn cameras. Procedures for body-worn cameras are specified in Office Policy GJ-35, *Body-Worn Cameras*. Personally owned digital recording devices, to include cell phones, are not authorized, unless exigent circumstances exist and with prior approval of a supervisor.

Division: A component of the Office that may be made up of a district, facility, unit, or section.

Electronically Stored Information (ESI): Information that is created, manipulated, communicated, stored, and best utilized in digital form, requiring the use of computer hardware and software. ESI may be stored on and retrieved from many sources, including: computer hard drives, network servers, flash (USB) drives, databases, cloud storage, mobile devices, such as mobile phones and tablet computers, which may include County-issued devices or personal devices, and social media websites. Common examples of ESI include word processing documents, spreadsheets, digital photographs, videos, e-mails and their attachments, text and instant messages, call logs, voicemails, and databases.

Employee: A person currently employed by the Office in a classified, unclassified, contract, or temporary status.

Exigent Circumstances: Emergencies in which a reasonable person would believe that imminent death or bodily harm to a person or persons or the destruction of evidence is likely or as otherwise defined by law.

Investigative Activities: Actions that are taken within law enforcement operations which include, but are not limited to, investigative interviews, covert operations, and interrogations.

PROCEDURES

1. **Purpose of a Digital Recording Device:** Digital recording devices provide audio, photo, or video documentation of the employee's investigation and/or actions from the first-person perspective. The use of a digital recording device is essential when available to enhance community transparency, strengthen public trust, and make record of interviews, interrogations, surveillance video, witness recordings, and detention activities.
2. **Office Property:** Employees shall not use personally owned digital recording devices, such as personally owned cellular phones to digitally record scenes or evidence, unless exigent circumstances exist. Employees shall obtain supervisor approval before using a personally owned digital recording device. All digital recordings made by employees during the course and scope of employment to include, but not limited to, information that is created, manipulated, communicated, stored, and best utilized in digital form shall remain the property of the Office regardless of whether those recordings were made with Office-issued or personally owned digital recording devices. This information shall be preserved and/or provided as electronically stored information, as specified in Office Policy GD-9, *Litigation Initiation, Document Preservation, and Document Production Notices*. Employees shall have no expectation of privacy or ownership interest in the content of these recordings. Body-worn cameras shall be utilized, as specified in Office Policy GJ-35, *Body-Worn Cameras*.
3. **Use of Digital Recording Devices:** Employees are authorized to photograph, audio record, or video record investigative or detention activities, including, but not limited to, interviews, interrogations, surveillance video, witnesses' recordings, cell extractions, safe cell placements, and safe bed placements. When contacts are related to enforcement activities such as, but not limited to, traffic stops, impaired driver investigations, or calls for service, all contacts shall be recorded with a body-worn camera, as specified in Office Policy GJ-35, *Body-Worn Cameras*.
 - A. Employees may use recordings to assist with investigations, detention activities, and completing reports. The use of a digital recording device shall be documented in all *Incident Reports (IR)*.
 - B. Personally owned digital recording devices including, personally owned cellular phones shall not be used to digitally record scenes or evidence, unless exigent circumstances exist. Employees shall notify their supervisor if a personal electronic device is used. If a personal cellular phone is used, the images must be downloaded to a CD or DVD and submitted, as specified in Office Policy GE-3, *Property Management and Evidence Control*. Photographs taken on a personal cellular phone are subject to be impounded for investigative purposes.

- C. Employees issued an Office cellular phone are authorized to take photographs, audio recordings, and video recordings of investigative or detention activities.
1. Employees who have access to evidence.com shall make every effort to use *Axon Capture* to take photographs, audio recordings, and video recordings.
 - a. When capturing digital media on an Office-issued cellular phone using the *Axon Capture* application, the employee shall select either photo, audio, or video. Once the capture is complete, the digital media shall be uploaded into evidence.com for storage and documented in the IR that the digital media was uploaded to evidence.com.
 - b. Employees shall ensure the digital media is labeled appropriately in evidence.com as follows:
 - (1) Tagged with the correct MC number in the ID field, utilizing the proper format with no dashes or spaces (MC19123456); and
 - (2) The corresponding category is identified in the Category field such as, but not limited to, arrest felony, arrest misdemeanor, citation criminal, or civil matter.
 2. In the event the employee has captured digital media on their Office-issued cellular phone and have access to evidence.com, but the digital media was not captured through the *Axon Capture* application, employee shall:
 - a. Import the digital media evidence through the *Axon Capture* application on the Office-issued cellular phone by selecting import. Once the import is complete, the digital media evidence shall be uploaded into evidence.com for storage, documented in the IR indicating the digital media was uploaded to evidence.com, and reviewed to ensure it was properly tagged with the MC number; or
 - b. Download to a CD or DVD and enter it into the Property and Evidence/QueTel System, as specified in Office Policy GE-3, *Property Management and Evidence Control* and document in the IR indicating the digital media was impounded as evidence into the Property Management Division.
 - c. Information regarding the use of *Axon Capture* application is located on the Office's shared drive.
 3. Employees who do not have access to evidence.com shall not use the *Axon Capture* application; however, may use their Office-issued cellular phone to take photographs, audio recordings, and video recordings. The digital media shall be download to a CD or DVD and entered it into the Property and Evidence/QueTel System, and document in the IR indicating the digital media was impounded as evidence into the Property Management Division.
 4. Employees shall not download the *Axon Capture* application to their personal cellular phone. This application is strictly for Office-issued cellular phone use only.
 5. All photos, audio recordings, and video recordings made using an Office-issued cellular phone shall only be used for official Office business. Dissemination of any digital media evidence is strictly prohibited, as specified in this Office Policy.

- D. When a digital recording device is activated, the employee activating the device shall advise all other Office employees on scene that the device is recording.
 - 1. Employees are not obligated to inform the public of the recording.
 - 2. If asked by the public, the employee shall advise that the recording device is activated.
 - E. When an employee believes, a recorded contact may lead to a complaint, the employee shall bring the recording to the attention of their supervisor. Meetings with complainants by the PSB or supervisors shall be audio and video recorded and documented, as specified in Office Policy GH-2, *Internal Investigations*.
 - F. Digital recording devices, either audio or video, shall not be used in locker rooms, restrooms, or any other place where there is a reasonable expectation of privacy, unless in the furtherance of a criminal investigation.
 - G. Employees shall not make surreptitious recordings of conversations involving other employees, unless the recording is in furtherance of an official Office investigation, or prior approval for the recording has been obtained from a bureau chief or designee, as specified in Office Policy CP-2, *Code of Conduct*.
4. **Storage of Digital Media:** All digital media, including seized and recovered evidence, photographs, and digital copies of interviews and recorded conversations related to an IR shall be either uploaded to evidence.com or downloaded to a CD or DVD and impounded, as specified in Office Policy GE-3, *Property Management and Evidence Control*.
- A. In situations when a recorded conversation or interview is determined to have evidentiary value due to the individual being charged or potentially charged with a crime, the audio or video file shall be either uploaded to evidence.com if an Office-issued cellular phone was used or downloaded to a CD or DVD and entered through the Property and Evidence/QueTel System as evidence.
 - B. Enforcement Action: In an enforcement situation when a crime is not committed, an arrest is not made, and a criminal report is not generated, an IR shall be completed for a 928M, Deputy Digital Media Impound. The audio or video file shall be either uploaded to evidence.com if an Office-issued cellular phone was used or downloaded to a CD or DVD and entered through the Property and Evidence/QueTel System for possible future use. The incident shall be cleared using disposition type code 11M, Digital Media Impound. The Property and Evidence Report shall document the date, the reason for the contact, and the name and date of birth of the individual.
 - C. Detention Action:
 - 1. When an IR is required, related digital media shall be either uploaded to evidence.com or downloaded to a CD or DVD and impounded, as specified in Office Policy GE-3, *Property Management and Evidence Control*.
 - 2. When an IR is **not** required, digital media shall be stored at the affected Office custody facility for a period of no less than three years from the date of the event.
 - D. All digital files shall be downloaded and impounded into the Property Management Division or uploaded to evidence.com by the end of each shift in which it was created.

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1. Only under exigent circumstances, such as the result of an extensive investigation where mass quantities of evidence must be processed, and it is not feasible to complete prior to the end of shift, and with prior approval from the respective division commander responsible for the investigation shall an exception be made to completing the impounding process by the end of shift. However, the property shall be promptly addressed by the end of the following shift, as specified in Office Policy GE-3, *Property Management and Evidence Control*.
 2. Confiscation of evidence or property for personal use, failure to turn in all evidence or property, or any other willful deviation from this Office Policy may result in disciplinary action, up to and including dismissal from employment, as specified in Office Policy GC-17, *Employee Disciplinary Procedures*.
- E. Once an audio or video file is successfully uploaded or downloaded, it shall be deleted from the hard drive of the digital recording device.
5. **Retention:** All digital media shall be retained, as specified in Office Policies, GE-3, *Property Management and Evidence Control*, and GD-9, *Litigation Initiation, Document Preservation, and Document Production Notices*.
6. **Dissemination:** All digital recordings of investigative or detention activities, related to the course and scope of employment, made with a personal or Office-issued digital recording device, are the property of the Office.
 - A. Office personnel shall not disseminate or duplicate digital media unless approved by the supervisor, bureau chief, or as requested from the Public Records and Request Management Section (PRRM), as specified in Office Policy GD-9, *Litigation Initiation, Document Preservation, and Document Production Notices*.
 1. Requests for digital media coming from prosecutorial agencies prior to charges being filed shall be referred to the case agent.
 2. Requests for digital media coming from prosecutorial agencies after charges have been filed, and for legal discovery, shall be processed through the PRRM.
 - B. Accessing, copying, or releasing any digital media for other than official law enforcement purposes is prohibited. Employees found to be in violation of this Office Policy may be subject to disciplinary action, up to and including dismissal from employment, as specified in Office Policy GC-17, *Employee Disciplinary Procedures*.
 - C. Employees shall not tamper with, erase, delete, alter, or dispose of any digital media; nor shall they intentionally inappropriately classify a recording, or knowingly take actions to prevent a recording from being viewed or downloaded.
7. **Prohibited Use of Digital Recording Devices:**
 - A. Employees shall not use an Office-issued digital recording device and recorded digital media for personal use.
 - B. Employees are prohibited from making personal copies of recordings created during the course and scope of employment.
 - C. Employees shall not retain recordings of activities or information obtained while on-duty, whether the recording was created with Office-issued or personally owned recorders. All such recordings

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shall be retained by the Office. Employees shall not duplicate or distribute such recordings, except for authorized legitimate Office business purposes.

- D. Employees shall not use personally owned digital recording devices, such as cellular phones to digitally record scenes or evidence, unless exigent circumstances exist. Employees shall notify their supervisor if a personal electronic device is used. Any employee who uses a personally owned recorder for Office-related activities shall comply with the provisions of this Office Policy, including retention and release requirements. Personally owned recording devices are subject to impound for investigative purposes.
- E. Recordings shall not be used by any employee for the purpose of embarrassment, intimidation, or ridicule.
- F. Intermediate posse members are authorized to use an Office-issued Posse Body-Worn Camera (BWC) and shall be required to use a BWC when assisting in a patrol assistance function.
 - 1. BWC procedures for intermediate posse members are specified in Attachment A of Office Policy GJ-27, *Sheriff's Posse Program*.
 - 2. Posse members are prohibited from using any other digital recording device, whether purchased by the posse member or their posse branch.