




# Clayton County Police Department PROCEDURES

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|--|--------------------------------|--|-------------------------|
| Subject<br><b>Personal Recording Devices</b>   |                                | Procedure #<br><b>D8</b>   |                         |
| Authorizing Signature<br> | Effective<br><b>03-29-2022</b> | <input type="checkbox"/> New<br><input checked="" type="checkbox"/> Amended<br><input type="checkbox"/> Rescinds | Total Pages<br><b>5</b> |

## I. POLICY

It is the policy of the Clayton County Police Department to allow employees to carry personal recording devices while at work and in the performance of their official duties.

## II. PURPOSE

The purpose of this policy is to provide clear direction as to the allowed uses and the prohibited uses of personal recording devices, and to establish protocols for proper handling of digital evidence.

## III. DEFINITION

A device means any instrument or apparatus used for overhearing, recording, intercepting, or transmitting sounds; or for observing, photographing, videotaping, recording or transmitting voice or visual images. This includes cameras, tape recorder, digital recorder, photographic equipment, video equipment, cellular phone, or other similar equipment; or any electronic, mechanical, or other apparatus which can be used to intercept or record visual, oral or electronic communication.

#### IV. PROCEDURES

- A. Employees may use their personally-owned recording device for official Department business. **Prior to the use of any such device, written permission must be obtained by the Chief of Police and verified by the Department's Legal Advisor.**
- B. The use of any "device" must comply with federal and state law.
- C. All recordings made by personnel acting in their official capacity as an employee of this Department shall remain the property of the County and such recordings are not considered private, regardless of whether those recordings were made with County-owned or personally-owned recording devices.
- D. Any item (e.g., electronic document, report, audio/video recording, image, email, voice communication, or any other form of electronic data) created while on-duty or off-duty that is directly related to official Department operations or investigations, whether created on a personally-owned or County-owned recording device, is considered to be a government record. As such, it is subject to open records, judicial discovery, inspections and/or examinations, and it shall be preserved accordingly. Employees who use a personally-owned recording device to conduct work-related business are responsible for the preservation of items created with such device.
- E. Any time an employee creates or receives any item (e.g., electronic document, report, audio/video recording, image, email, voice communication, or any other form of electronic data) that is directly related to official Department operations or investigations with their personally-owned recording device, such employee will record the related case number and thoroughly document and explain the relevance of such item in the *Incident Report*.
  1. The employee will submit the *Incident Report* via Records Management System (RMS) and such item:
    - a. Shall be saved in RMS via attachment; or
    - b. Collected as evidence and submitted to the Property & Evidence Section via *Clayton County Police Department Evidence Submission/Property Form*.
- F. Evidence
  1. Any evidence that is created from a personally-owned recording device shall be turned into the Property & Evidence Unit in the same manner as any similar type of evidence created from a County-owned recording device.

2. Department supplied CDs, DVDs, USB Flash Drives and other County-owned equipment may be utilized to download documents, pictures, audio and/or video files, etc.
  3. Cassette tapes may be placed into evidence, but they will not be replaced by the Department and must be purchased at the employee's expense.
  4. All recordings shall be retained for a period consistent with the requirements of the records retention schedule.
  5. If any form of digital evidence exists, formal departmental reports will include a notation that such evidence exists, including the type of evidence and the storage location.
- G. When preparing written reports, employees should review their recordings as a resource. However, employees should not use the fact that a recording was made as a reason to write a less detailed report.
- H. All official Department information shall be transferred as soon as possible from the employee's personally-owned recording device to the respective County-owned device, and no later than the end of shift. Once the transfer of Department information is complete, the employee shall permanently delete the information immediately from their personally-owned device.
- I. Employees will not release, share, or make copies of any electronic documents, reports, audio or video recordings, images, emails, voice communications, or any other form of electronic data created while on-duty or off-duty that is directly related to official Department operations or investigations, whether created on a personally owned or County-owned recording device, unless specifically authorized by the Chief of Police.
- J. Public Records Requests

If a member of the public requests a copy of any audio/video recordings or other items of evidentiary value, such requests are subject to the following guidelines:

1. Individuals making an open records request may utilize the *Request to Inspect Public Records Form*, but are not required to do so. Refer to SOP E4: *Central Records & Permits* Appendix C of this procedure regarding the *Request to Inspect Public Records Form*.
2. All open records requests shall be forwarded to the Central Records & Permits Unit Commander, or designee, to be logged and assigned a tracking number using the *Open Records Log*. The Central Records & Permits Unit Commander, or designee, shall immediately forward each open records request to the Records Custodian responsible for the open

records being requested. The responsible Records Custodian shall reply within seventy-two (72) hours to the requestor, with a copy of the reply sent to the Open Records Manager. Payments for open records requests will only be accepted in the form of cash, money orders or business checks. Personal checks will not be accepted.

3. The request must not be exempted by the Georgia Open Records Act and once approved by the Central Records & Permits Unit Commander or authorized designee, the request will be processed.
4. Audio/video recordings and other items of evidentiary value will be reproduced by the Property & Evidence Unit or the Central Records & Permits Unit depending on the type of evidence. The duplication of any such item will be documented in the *Incident Report* via RMS and/or notated on the *Request to Inspect Public Records Form, Clayton County Police Department Evidence Submission/Property Form* or other forms.
5. The Records Custodian is responsible for the timely resolution of any open records request within their responsibility. The resolution of such request includes the final response and delivery of the open records request to the requestor, and the processing of any payment, when applicable. If the request is denied, the requester will be notified in writing, and provided the reason for such denial. For additional information regarding open records request refer to standard operating procedure E4, *Central Records & Permits*.

K. Employees are reminded that conversations are to be free and open.

1. Employees and/or any person acting on behalf of an employee are prohibited from recording or reproducing with any type of device any conversation or interaction between employees or supervisors while on County premises and/or while conducting County business without the expressed written consent of all persons engaged in the conversation, communication or interaction.
2. This policy does not prohibit the recording or reproducing of communications, conversations, or interactions where all persons being recorded are aware of the recording of their communications or interaction, and have given their informed consent to have the communications or interactions recorded.
3. This policy does not prohibit the County or Department from recording its own administrative proceedings, hearings, meetings and official investigations. Nor does it prohibit police surveillance activity or the recording of police interrogations and interviews of suspects and witnesses.

4. Recordings shall not be used by any employee for the purpose of embarrassment or ridicule.

L. Body Worn Cameras/In-Car Cameras

1. No employee shall utilize, or otherwise allow to be utilized, Body-Worn Cameras (BWCs), In-Car Cameras (ICCs) and Digital Multimedia Evidence (DME) for personal use.
2. Incidents not to be recorded with BWCs/ICCs:
  - a. Administrative communications as defined by this policy.
  - b. Communication between Confidential Reliable Informants (CRI) and undercover officers who are not involved in an active scene.
  - c. When an employee is on break or is otherwise engaged in personal activities and/or conversations.
  - d. Except in the lawful discharge of official duties, any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room, etc.
  - e. Roll call, briefings, Department meetings and other Department business not related to active events.

For additional information regarding BWCs and ICCs refer to standard operating procedure B13, *Body-Worn and In-Car Cameras*.

- M. Any employee who may have questions regarding this policy is encouraged to seek clarification from their immediate supervisor.

**V. CANCELLATION**

This directive amends and supersedes the following standard operating procedure(s): *D8: Personal Recording Devices*, dated February 27, 2012.