

	<b>GENERAL ORDER</b>	<b>Effective: 07-08-2022</b>	<b># 03-05</b>
	<b>Section:</b> Management and Supervision	<b>Replaces or Modifies:</b> GO # 03-05 (11-15-16)	
	<b>Title:</b> Recording Devices		
<b>Issued by:</b> Chief Deputy Mattie Provost			

**Purpose:**

To provide officers with guidelines on the use of recording devices.

**Policy:**

It is the policy of the Fort Bend County Sheriff’s Office (FBCSO) to utilize recording devices in a manner that allows for the documentation of events in order comply with State Law concerning Racial Profiling (see General Order 03-03 for details), provide evidence for legal proceedings, and provide evidence for review in internal investigations into allegations of wrongdoing on the part of FBCSO employees.

**Definitions:**

Officer - An employee or reserve Deputy of the FBCSO who is appointed as a Peace Officer and any employee whose position is required by law/policy/practice to use a recording device or manage storage of information gathered by recording devices.

Agency – Fort Bend County Sheriff’s Office

Field Contact – When an officer interacts with someone reasonably believed to be a suspect or potential suspect of criminal activity. This generally refers to uniformed field personnel and does not generally include interactions that are conducted in the course of follow- up investigation activities (including but not limited to interviews by CID personnel and interviews inside FBCSO buildings).

Traffic Stop – Means an occasion in which an officer stops a motor vehicle for a suspected violation of a law.

Recording Device – A piece of equipment that records events on audio, video, or both audio & video.

Policy– As defined in General Order 01-01.

FBCSO Business– Any action taken by an employee that involves duties associated with employment by the FBCSO. This includes actions on and off duty (example includes but is not limited to a recording of police enforcement action even if during off duty hours).

**Procedure:**

- I. Authorized Recording Devices
  - A. Officers may only use the types of recording devices authorized by policy and only in the manner authorized by policy.
  - B. All recording device models and system types that store data recorded by the devices that are to be purchased and/or utilized by the FBCSO must be approved by the appropriate Division Commander.
  - C. Unless written permission is received from the appropriate Division Commander, officers may not use a recording device in the course of FBCSO business that has not been issued to them by the FBCSO (private purchase and use is not permitted without this specific authorization).

## II. Proprietary Rights

- A. Recording devices issued by the FBCSO remain the sole property of the FBCSO and as such shall be immediately surrendered upon request to applicable investigative or supervisory authority.
- B. The video and/or audio captured by recording devices issued by FBCSO and/or any recording device used in the course FBCSO business is the sole property of the FBCSO, subject to applicable FBCSO policies, rules of evidence, and laws concerning information gathering/retention/dissemination.
  - 1. Officers may only download and store information from recording devices onto/in FBCSO approved data storage devices / strategies (example of a strategy is an approved web based storage service).
  - 2. All data storage devices / strategies must be approved by the Chief Deputy or appropriate Division Commander.
- C. Recording devices issued by the FBCSO are to be used for official purposes only in the course of FBCSO business. Only personnel ranked Captain or above may authorize deviation from this rule on a case by case basis.

## III. Information Integrity

- A. Once a recording is made in the course of FBCSO business it shall not be altered (including any form of editing content), erased, and/or deleted, except as authorized in this General Order.
- B. Officers will not attempt to or actually take actions to bypass or create interruptions to a recording system so that it does not record an event that is required by policy, except as authorized in this General Order.
- C. Only those persons authorized by the Chief Deputy will have the authority to remove or any way edit recordings (whether on the actual recording devices or in the approved storage device / strategy). Those persons authorized by the Chief Deputy shall:
  - 1. Remove or otherwise destroy information in accordance with the Records Retention schedule approved by the FBCSO and/or in accordance with specific guidance found in a General Order. Prior to removal or destruction, all reasonable efforts will be made to ensure that the information is no longer required to be maintained for purposes of ongoing legal action or other legitimate agency needs (one example is as a tool for ongoing training).
  - 2. Redact information under the process of protecting confidential/privileged information when providing public information in compliance with State Law. Any redaction shall only be done in a manner that preserves the integrity of the original recording.
  - 3. Edit or enhance content in response to requests from a prosecutor or investigators to appropriately aid in efforts to solve or prosecute potential criminal actions. Content editing may only be done in a manner that also preserves the integrity of the original recording. [Editing or enhancing may be done by FBCSO personnel or using outside sources dependent upon case by case needs].
  - 4. Perform other actions as authorized by the Chief Deputy.

## IV. Recording Device Categories

- A. In-car Video System – These are integrated video / audio recording devices installed in vehicles.
- B. Audio – These are audio recording devices carried on the person of officers.

- C. Body Worn Camera – Integrated video/audio recording devices carried on the person of officers. The use of these devices are guided by G.O. 10-02 Body Worn Cameras.
  - D. Security – These are video systems (may or may not have audio capability) mounted in or around facilities. [which may or may not have record capabilities]
  - E. Surveillance – These are video systems (may or may not have audio capability) placed for the purpose of conducting lawful surveillance. [which may or may not have record capabilities]. This would also include unmanned aircraft.
  - F. Interview – These are integrated video / audio systems installed for the purpose of recording interviews of persons pursuant to criminal and/or internal investigations.
  - G. Evidence – These are devices used to document evidence found during investigations. This includes but is not limited to devices used in undercover operations to record events such as narcotics transactions and devices used to record evidence found at a crime scene.
  - H. Public Information / Education – These are devices used to aid in providing information and/or educating the public. These are also devices used to aid in the training of FBCSO employees and/or other law enforcement officers.
- V. Required Use of Recording Devices (In-Car Video Systems, Audio, Body Cameras)
- A. Traffic stops (including DWI investigations) and field contacts made while in FBCSO vehicles equipped with an In-Car Video System are to be recorded when capable. When contacts are out of range for the In-Car Video System or the officer is unable to activate the In-Car Video System, the officer shall record the interaction with his/her audio recording device.
  - B. Traffic stops (including DWI investigations) and field contacts conducted by officers on motorcycles that are equipped with an In-Car Video System adapted for motorcycle usage shall follow directions in V.A preceding. If the motorcycle is not thus equipped the officer shall record the interaction with his/her audio recording device.
  - C. Interactions concerning calls for service related to family violence, child custody/divorce proceeding disputes, investigation of traffic crashes, in progress assaults, and civil standbys are to be recorded. When capable they are to be recorded on video and audio; however, in those cases where such capture cannot be reasonably accomplished audio only recording is acceptable.
  - D. At the time an interaction with the public becomes confrontational, regardless of initial interaction type.
  - E. In situations where an officer is equipped with a body camera then it shall also be used to record the situations covered in V.A.B.C. & D. preceding.
  - F. Officers shall make all reasonable efforts to ensure that recording of events required under this section is accomplished.
    - 1. Nothing in this General Order directs or otherwise requires officers to compromise their safety or the safety of others in order to document an event with a recording device.
    - 2. Officers cannot use the exception provided in V.F.1. preceding if the primary reason that an event was not documented with a recording device was the officer's lack of preparation and/or reasonable foresight when responding to or initiating situations that would reasonably be seen to give warning that recording could be required.
    - 3. Officers are expected to have a working knowledge of the operational parameters of any recording device he/she utilizes in order to ensure that all reasonable steps are taken to ensure that recordings give the best representation of events as situations allow. This includes but is not limited to positioning of the field of vision to capture relevant activity.

4. At the beginning of an officer's tour of duty, the officer will make inspection and test his/her recording device(s) to ensure proper working order. If the equipment is not working it shall be immediately reported to a supervisor. Division Commanders will establish processes to document issues and resolve same.
5. Officers shall take all reasonable efforts to ensure that all information recorded by a device is downloaded to or directly stored in approved FBCSO storage device(s)/strategies in a timely manner so as to minimize risk of loss of data. Division Commanders shall coordinate efforts and establish processes to accomplish this order – and employees will follow these processes.

VI. Other Authorized Use of Recording Devices

- A. Recording devices may also be used to record other interactions with the public not listed in Section V preceding during FBCSO business including but not limited to the investigation of potential violations of law and related calls for service (recordings of telephone conversations that do not otherwise violate policy or Law is one example)
- B. If a recording is made pursuant to this section, rules that are applicable concerning utilization, storage, and retention found in this General Order are to be followed (examples include but are not limited to Section V)
- C. If a Law requires the use of a recording device, then use is required under this General Order in compliance with the Law.

VII. Other Use Guidelines

- A. No recording device will be used in a manner that violates any person's rights (including but not limited to privacy) under established statutory, common-law, and/or case law.
- B. In-car video systems, audio devices, and body cameras are to be utilized to document specific events and are not to remain recording just to document all activity or activity that is not related to suspected criminal activity, except as authorized by this General Order or the Chief Deputy in regards to an internal investigation or specific need.
- C. Officers are to take all reasonable steps to ensure that recordings of events start as near as possible to the beginning of the event (or just prior) and continue to the conclusion of the event without interruption. If there is interruption, the reason for the interruption will be documented in the reports submitted. If multiple officers are recording an event it is permissible for some to discontinue recording as long as it is coordinated among officers present in a manner that ensures the event is still being recorded (this coordination and resultant discontinuation cannot begin until it is reasonably certain that a scene is no longer active in regards to potential use of force). In large or complex events, supervisory personnel will make the scene and as part of their duties will assess recording needs.
- D. Officers are reminded that recording an event does not relieve them of the duty of documenting events in written reports in a complete and thorough manner.
- E. Security devices utilized in the County Jail shall be placed in compliance with any rules established by the Texas Commission on Jail Standards.
- F. Prior to any surveillance device being utilized with the primary intention of detecting wrongdoing on the part of a FBCSO employee / reserve, other Agency Law Enforcement personnel, other Fort Bend County employees, or any elected official authorization shall be obtained from the Sheriff or Chief Deputy.
- G. Interview and evidence devices shall only be used for the purpose of documenting

evidence that is admissible in administrative and/or court proceedings.

- H. Devices provided to employees for the purpose of public information / education shall only be used for the purposes delineated in this General Order and in keeping with the task the employee is assigned to perform.
- I. The provisions found in Section V.F. of this General Order applies to all devices as applicable.

VIII. Any use of Recording Devices that violates a provision of any FBCSO policy that is not in conflict with this General Order or a Law is prohibited. A recording whose primary purpose is to comply with this General Order does not violate provisions of General Order 02-01 subsection entitled "Inappropriate Communication Practices".

IX. Records Retention

- A. The FBCSO has adopted the following retention schedules as promulgated by the Texas State Library and Archives Commission
  - 1. Local Schedule GR (Records common to all local governments)
  - 2. Local Schedule PS (Records of public safety agencies)
- B. All video and/or audio captured by the FBCSO will not be disposed of prior to the expiration of its retention period as defined in the schedules mentioned preceding in this section. In addition to this - no record will be destroyed if such destruction would violate a Law, it is subject to any pending legal action or notice of legal action (this includes use as evidence in a criminal case), or it is the subject of a pending public information request.
- C. Specific provisions concerning retention of video/audio found in General Order 03-03 "Racial Profiling" will be followed.
- D. An exception to 03-05 sec. IX. B will be allowed for recordings captured by unmanned aircraft in violation of TX Government Code 423.003. The exception is based on the approval/review of the proper Division Commander.

X. Employees of Lieutenant or higher rank, officers assigned to the Narcotics Task Force, and officers working an authorized undercover assignment are not required to use recording devices under the guidelines of this General Order (except that use is required as detailed concerning traffic stops in Section V of this General Order); however, neither is use prohibited and any recording and devices shall be in compliance with this General Order. NOTE: Officers working undercover assignments will follow any applicable Bureau/Divisional SOP and/or supervisory direction concerning recording devices as it applies to documentation as it relates to criminal and/or civil cases and not otherwise in conflict with this General Order.

**Only the Sheriff or Chief Deputy may authorize exceptions to this General Order.**