

# University Police Services

University Police Services Southern Command Policy Manual, release 5-22-2019

## Portable Audio/Video Recorders

### **422.1 PURPOSE AND SCOPE**

This policy provides guidelines for the use of portable audio/video recording devices by members of this agency 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 recordings, interviews, or interrogations conducted at any University Police Services facility, authorized undercover operations, wiretaps, or eavesdropping (concealed listening devices).

### **422.2 POLICY**

University Police Services 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 by accurately capturing contacts between members of the Department and the public. Violations of this policy may subject the member to disciplinary actions.

### **422.3 MEMBER PRIVACY EXPECTATION**

All recordings made by members on any agency-issued device at any time, and any recording made while acting in an official capacity of this agency, regardless of ownership of the device it was made on, shall remain the property of the Department.

### **422.4 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 agency, and that the recorder is in good working order with a fully charged battery. 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. The supervisor shall remove the malfunctioning device from service and contact the department's technology support staff. Uniformed members shall wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

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 shall wear

the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a portable recorder, the assigned member shall record his/her name, University Police Services 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 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.

#### **422.5 ACTIVATION OF THE PORTABLE RECORDER**

This policy is not intended to describe every possible situation in which the portable recorder shall 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 in any of the following situations (NRS 289.830):

- (a) All enforcement and investigative contacts, including stops and field interview situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance, and all crime interdiction stops
- (c) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members must be mindful of protecting the privacy of persons who:

- (a) are inside a private residence or dorm room,
- (b) are seeking to report a crime or provide information regarding a crime or ongoing investigation anonymously, or
- (c) are claiming to be a victim of a crime

Members shall 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 recorder should be activated in situations described above as soon as reasonably practicable.

##### **422.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER**

Nevada law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (NRS 200.650).

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 agency member without a court order or in a department vehicle or in a facility unless lawfully authorized by the Associate Vice President and Director of Police Services or the authorized designee.

#### **422.5.2 CESSATION OF RECORDING**

Once activated, the portable recorder shall continuously record until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording shall be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident (NRS 289.830).

#### **422.5.3 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.

#### **422.6 PROHIBITED USE OF PORTABLE RECORDERS**

Members wearing portable recorders shall not activate the recorder for reasons other than investigating a crime or offense (no recording of public activity unrelated to a specific offense) (NRS 289.830).

Members are prohibited from using agency-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 an official capacity.

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

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the shift supervisor. Any member who uses a personally owned recorder for agency-related activities shall comply with the provisions of this policy, including retention and release requirements, and shall 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.

#### **422.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members shall upload and tag

in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes that:

- (a) The recording contains evidence relevant to potential criminal, civil, or administrative matters, or
- (b) A complainant, victim, or witness has requested non-disclosure, or
- (c) A complainant, victim, or witness has not requested non-disclosure but the disclosure of the recording may endanger the person, or
- (d) Disclosure may be an unreasonable violation of someone's privacy, or
- (e) Medical or mental health information is contained, or
- (f) Disclosure may compromise an undercover officer or confidential informant.

#### **422.8 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members shall 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 Associate Vice President and Director of University Police Services or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings shall be reviewed by a Divisional Chief and approved by the Associate Vice President and Director of University Police Services or his designee prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity shall not be publicly released unless disclosure is required by law or order of the court.

#### **422.9 COORDINATOR**

The Associate Vice President and Director of Police Services or the authorized designee shall designate a coordinator responsible for:

- (a) Establishing procedures for the security, storage, and maintenance of data and recordings.
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging, or marking events.

#### **422.10 RETENTION OF RECORDINGS**

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule but in no event for a period less than 21 days.

##### **422.10.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.