Portable Audio/Video Recorders

430.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department 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 (Utah Code 77-7a-102).

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Cottonwood Heights Police Department facility, undercover operations, wiretaps or eavesdropping (concealed listening devices).

Additional guidance regarding the use of body-worn cameras during the execution of a warrant is found in the Warrant Service Policy.

430.2 POLICY

The Cottonwood Heights Police Department 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.

430.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity of this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

430.4 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 Department, 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 recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable (Utah Code 77-7a-104; Utah Code 77-7a-105).

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

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When using a portable recorder, the assigned member shall record his/her name, CHPD 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 (Utah Code 77-7a-104).

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 (Utah Code 77-7a-104).

430.5 ACTIVATION OF THE PORTABLE RECORDER

This policy is not intended to describe every possible situation in which the portable recorder should 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 (Utah Code 77-7a-103; Utah Code 77-7a-104):

(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) Self-initiated activity in which a member would normally notify Dispatch

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

(e) Any use of force

(f) Dispatched calls for service

(g) Execution of a warrant

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 (Utah Code 77-7a-102). However, the recorder should be activated in situations described above as soon as reasonably practicable (Utah Code 77-7a-104).

430.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Utah law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Utah Code 77-23a-4).

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Members of the Department 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 department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

430.5.2 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped (Utah Code 77-7a-104):

(a) During significant periods of inactivity such as report writing or other breaks from direct participation in the incident, including consultation with a supervisor or other officer.

(b) When speaking with a victim, witness, or person wishing to report or discuss criminal activity if both of the following apply:

1. The subject of the recording requests deactivation.
2. The member believes the value of the information outweighs the value of the potential recording.

(c) During a conversation with a victim of a sexual offense or domestic violence if:

1. The member is conducting an evidence-based lethality assessment.
2. The victim or the member believes that deactivating the body-worn camera recording will either:
   (a) Encourage complete and accurate information sharing by the victim, or
   (b) Is necessary to protect the safety or identity of the victim.
3. The body-worn camera is reactivated as soon as reasonably possible after the evidence-based lethality assessment is complete.

The member should record the request to deactivate the portable recorder. A member should document any instance where he/she should have activated his/her body-worn camera but failed to do so, and the reason for the failure (Utah Code 77-7a-104).

430.5.3 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.

430.6 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-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 may not alter or delete a recording captured on a portable recorder (Utah Code 77-7a-106).

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Members are also prohibited from retaining recordings of activities or information obtained while on-duty whether the recording was created with a department-issued or personally owned recorder. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department (Utah Code 77-7a-106).

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. Any member who uses a personally owned recorder for department-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.

430.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings members should download, tag or mark these 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:

(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 under-cover officer or confidential informant.

(g) Recorded content contains sound or images from a residence (Utah Code 63G-2-302).

(h) Recorded content contains sound or images from a hospital, health care facility, human service program or the clinic of a health care provider (Utah Code 63G-2-305).

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.

430.8 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 should not use the fact that a recording was made as a reason to write a less detailed report.

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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 Chief of Police 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 should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

430.9 SECTION TITLE

430.10 COORDINATOR

The Chief of Police or the authorized designee should designate a coordinator responsible for establishing procedures for (Utah Code 77-7a-102):

(a) The security, storage and maintenance of data and recordings.

(b) Accessing data and recordings.

(c) Logging or auditing access.

(d) Transferring, downloading, tagging or marking events.

430.11 PUBLIC ACCESS

The Records Manager should ensure that this policy is available to the public in written format as well as published to the department website (Utah Code 77-7a-105).

430.12 RETENTION OF RECORDINGS

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule and as required by any applicable federal, state and local law (Utah Code 77-7a-107).

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430.12.1 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.

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