

Portable Audio/Video Recorders

452.1 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.

This policy does not apply to lawful surreptitious audio/video recording, interception of communications for authorized investigative purposes or to mobile audio/video recordings (see the Investigation and Prosecution and Mobile Audio/Video policies).

452.2 POLICY

The Prineville 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. Officers are not expected to jeopardize the safety of themselves or any other person in order to comply with the provisions of this policy.

452.3 AUTHORIZED USE OF RECORDINGS

All recordings made by members acting in their official capacity shall remain the property of the Department regardless of whether those recordings were made with department-issued or personally owned recorders, and shall only be used for legitimate law enforcement purposes. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

Any contract with third-party vendors for storage of recordings will specify the recordings remain the property of the Prineville Police Department and any use of the recordings shall comply with Prineville Police Department policies and procedures.

452.3.1 PROHIBITED APPLICATIONS

The use of facial recognition or other biometric matching software to analyze recordings made through the use of body-worn video recorders is prohibited.

452.4 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 malfunctions at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable. Uniformed members should wear the recorder in a conspicuous manner and notify persons that they are being recorded, whenever possible.

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

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recording in an authorized undercover capacity, non-uniformed members should use the recorder in a conspicuous manner and notify persons that they are being recorded, whenever possible.

When using a portable recorder, the assigned member shall, as soon as possible, record his/her name, the current date and time, and the subject of the recording at the beginning of the recording; and the ending time at the conclusion of the recording. If the recording device and related software automatically captures any or all of the required information, it does not need to be manually recorded by the officer.

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.

452.5 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 will, if possible, be activated in any of the following situations:

- (a) Prior to initiating contact with any person for whom the officer has reasonable suspicion has committed, is committing, or will commit a crime.
- (b) Any incident when the member anticipates the use of force
- (c) A situation where the recorder could help de-escalate the incident
- (d) Situations where there is a potential of a complaint against the department or the officer
- (e) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- (f) At the direction of a supervisor

Members shall notify all parties to the conversation that a recording is being made unless pursuant to a court order or the limited exceptions in ORS 165.540 subsections (2) through (7) and ORS 133.726 (prostitution offenses, felonies when exigency makes obtaining a warrant unreasonable, certain felony drug offenses, felonies that endangers human life (ORS 165.540)).

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. However, the recorder should be activated in situations described above as soon as practicable.

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452.5.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member's direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

452.5.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Oregon law generally prohibits any individual from surreptitiously recording any conversation, except as provided in ORS 165.540 and ORS 165.543.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

452.5.3 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.

452.6 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 are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department 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 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.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

452.7 RETENTION OF RECORDINGS

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and transfer the file in accordance with current procedure for storing digital files and document the existence of the recording in the related case report. Transfers should occur at the end of the member's shift, or any time the storage capacity is nearing its limit.

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.

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452.7.1 RETENTION REQUIREMENTS

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

452.8 REVIEW OF RECORDINGS

When preparing written reports, members should review their recordings as a resource. 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.

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) 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.

452.9 DISCLOSURE UNDER PUBLIC RECORDS LAW

Recordings created by body-worn cameras are generally exempt from disclosure unless the public interest requires disclosure in the particular incident.

Such recordings that are ultimately required to be disclosed must, prior to disclosure, be edited so as to render the faces of all persons within the recording unidentifiable.