
Portable Audio/Video Recorders

423.1 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 mobile audio/video recordings, interviews or interrogations conducted at any Lorain Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

423.1.1 ORGANIZATIONAL PHILOSOPHY

The Lorain Police Department recognizes that audio and video data is valuable recorded evidence that may provide a means of accountability for both officers and the public. It is also recognized that audio and video data may not be an accurate reflection of all that is involved with an incident. Audio and video data cannot reflect the human and cognitive conditions associated with an officer and public contact. Additionally, audio and video shall not supersede the principles established by *Graham vs. Connor*.

423.2 POLICY

The Lorain 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.

423.3 COORDINATOR

The Chief of Police or the authorized designee should 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.
- (e) Establishing procedures for a documented review of recordings.

423.4 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.

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423.5 MEMBER RESPONSIBILITIES

Prior to going into service, to include approved off duty employment in which interaction with the general public is expected, 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. Members will not attempt repairs, nor will they modify the device in any way unless specifically authorized by the Coordinator or a Division Command. Uniformed members will wear the recorder forward facing on their torso so that it captures video from the viewpoint of the officer.

Non-uniformed members, and members of specialty units (Detective, Narcotics, SWAT, ect...) shall wear and activate their recorder when conducting street level enforcement, seizing / inventorying / counting evidence, and during warrant services until such time that the scene is secure, or otherwise directed by a supervisor.

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 using a portable recorder, the assigned member shall record his/her name, LPD 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 automatically captures the user's unique identification and the date and time of each recording upon the officer's unique Radio Frequency Identification (RFID) card being scanned into the recorder at the beginning of the officer's tour of duty.

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.

423.6 ACTIVATION OF THE AUDIO/VIDEO 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:

- (a) All calls for service and official contacts with the public
- (b) All enforcement and investigative contacts including stops and field interview (FI) situations

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- (c) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (d) Self-initiated activity in which an officer would normally notify the Communications Center
- (e) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded. During times of contact with victims of sensitive nature crimes, members may reposition the portable recording device to prevent video of the victim from being captured, and allowing only audio statements to be recorded. (e.g. child sexual assaults)

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.

423.6.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously 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 may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Should officers need to confer regarding the tactical considerations or planning of an incident while it is transpiring, recording may be muted. A supervisor should be notified as soon as practicable of the recording being muted. Once tactical planning is complete, audio recording should commence.

423.6.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Ohio law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (ORC § 2933.52).

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

423.6.3 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.

423.7 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.

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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 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, 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.

Members are prohibited from activating or using any portable recording device while inside the Lorain Police Department to record any activity that is not directly related to a criminal incident, or that the recording will have no criminal evidentiary value.

Accidental activations and recordings while an officer is on station may be purged from the system upon review and approval of the Coordinator at the discretion of the Chief of Police. (E.g.; lunch, call of nature breaks)

423.8 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 undercover officer or confidential informant.

All videos are required to be appropriately classified daily in the system through the MDC video recording application or desktop video recording application.

Members are required to download videos daily, at the end of each day's tour of duty by re-depositing the portable recording device in the appropriate docking station.

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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.

423.9 RETENTION OF RECORDINGS

All evidentiary recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule. Recordings of official contacts with no evidentiary value will be retained for a period of thirty days.

423.9.1 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. This may include costs of media devices used to provide recordings, being paid by the requester.

423.10 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.

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. Supervisors may do a routine review of recordings made by personnel under their supervision.

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.

423.10.1 PERFORMANCE REVIEW OF PROBATIONARY OFFICER VIDEO

In order to ensure the highest quality of police service, the Lorain Police Department training department, and Operations Division Commander will make random reviews of all newly hired officers. These random reviews will be done frequently once a probationary officer is complete

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with the field training program, and will continue throughout the probationary officer's first year of employment. These quality control reviews should concentrate on:

- (a) Adherence to current department policy.
- (b) Professionalism and interaction with the public in general and under stressful conditions.
- (c) General knowledge and competency.

Quality control reviews of probationary officers should be used to both confirm that the provided training is being retained by the probationary officer, and to indicate if any additional training may be needed.

423.11 POLICY REVIEW

Annually, the Chief of Police or the authorized designee shall conduct a review of this policy for best practice and compliance purposes.

423.12 TRAINING

Initially, at least annually, or more frequently upon any updates, sworn members of this department shall certify in writing, or acknowledge electronically, that they have received, read, and understand this policy.