
Use of Portable Audio/Video Recorders

307.1 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).

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

307.2 POLICY

The Washington County Sheriff's Office 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 Office by accurately capturing contacts between members of the Office and the public.

307.3 MEMBER PRIVACY EXPECTATION

All recordings made by members acting in their official capacity shall remain the property of the Office regardless of whether those recordings were made with department-issued or personally owned recorders. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

307.4 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

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- (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 practicable (Utah Code 77-7a-104).

307.4.1 SURREPTITIOUS USE OF THE AUDIO 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).

Members of the Office may surreptitiously record any conversation during the course of a criminal investigation in which the deputy reasonably believes that such a recording will be beneficial to the investigation.

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

307.4.2 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 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 (Utah Code 77-7a-104).

A member may deactivate a portable recorder when speaking with a victim, witness or person wishing to report or discuss criminal activity if the subject of the recording requests deactivation and the member believes the value of the information outweighs the value of the potential recording. The member should record the request to deactivate the portable recorder (Utah Code 77-7a-104).

307.4.3 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.

307.4.4 BODY CAMERA OPERATIONS

Members shall familiarize themselves with the proper operation of the body worn unit by reading the provided user guide and completing department provided training.

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Deputies shall understand basic body worn camera operations to include:

- a. Initiating and stopping recording;
- b. Verifying remaining storage capacity;
- c. Checking battery level;
- d. Tagging video recordings.

307.4.5 PROTECTED CONTENT

Sheriff's Office personnel who are assigned body worn video equipment should remain aware that video/audio recordings which contain protected content may occur during the course of their normal duties. When a member becomes aware of protected content during a recording they shall tag the video by inserting a tracepoint marker using the snapshot button of their assigned BodyVISION unit in order to simplify its identification.

A member should place a tracepoint marker on the following protected contents:

- (a) A complainant, victim or witness has requested non-disclosure;
- (b) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person;
- (c) Disclosure may be an unreasonable violation of someone's privacy, including an accidental recording of Office members;
- (d) Medical or mental health information is contained;
- (e) Disclosure may compromise an under-cover officer or confidential informant;
- (f) Recorded content contains sound or images from a residence (Utah Code 63G-2-302).

Members shall document the existence of all video/audio recordings in the related incident report. A member should document the existence of all protected contents.

307.5 STORAGE

Members should make reasonable efforts to upload video content prior to the end of their assigned shift or as soon as reasonably practical by placing the body worn camera on a designated docking station.

307.6 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).

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

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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 Shift Sergeant. 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.

307.7 REVIEW OF RECORDINGS

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. Video content should also be reviewed by the shift Sergeant for proper classification on any law incident where the presence of audio/video recordings has been documented in the incident report.

Recordings may be reviewed in any of the following situations:

- (a) For use when preparing reports or statements;
- (b) By a supervisor investigating a specific act of deputy conduct or for quality assurance;
- (c) By a supervisor to assess deputy performance;
- (d) To assess proper functioning of in-car video systems;
- (e) By a department investigator, after approval of a supervisor, who is participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation;

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- (f) By department personnel who request to review recordings;
- (g) By a deputy who is captured on or referenced in the video or audio data and reviews and uses such data for any purpose relating to his/her employment;
- (h) By court personnel through proper process or with permission of the Sheriff or the authorized designee;
- (i) By the media through proper process or with permission of the Sheriff or the authorized designee;
- (j) To assess possible training value;
- (k) Recordings may be shown for training purposes. If an involved deputy objects to showing a recording, his/her objection will be submitted to his/her supervisor to determine if the training value outweighs the deputy's objection;
- (l) For other reasons as specified with the permission of the Sheriff.

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.

307.8 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).

307.9 COORDINATOR

The Sheriff 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.

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307.10 RETENTION OF BODY WORN VIDEOS

In compliance with the Utah State retention schedule, all records will be maintained for a period of no less than 120 days. In order to ensure audio/video evidence is maintained and available for ongoing investigations, the assigned case officer should take the necessary steps to retain the recordings. Recordings are retained by the DES by creating an L-3 Case and attaching all related videos.

The following video/audio recordings may have significant evidentiary value and should be retained and assigned to an L-3 case:

- All responses to criminal activity;
- All interactions with aggitated or hostile individuals;
- Any other recording deemed significant, at the deputy's discretion.

The deputy responsible for the case should make a request to a supervisor or an L-3 system administrator to add the recordings of other involved deputies to the L-3 Case. The sergeant or supervisor reviewing the law incident should ensure an L-3 case was created.

In the event of an accidental activation of the camera where the resulting recording is of no investigative or evidentiary value and contains personal privacy content, the recording deputy may request that the audio/video file be deleted . The deputy will submit a request for deletion via email, with sufficient information to locate the camera file, to their direct supervisor.

The email will be forwarded through the deputy's chain of command to a lieutenant. The receiving lieutenant shall review the file and approve or deny the request. Prior to deleting an accidental activation, the lieutenant will ensure the file is not associated with a police contact or CAD event.

The recording deputy may request to be present during the review. No files associated with an official police contact, CAD event, or any pending litigation or complaint is eligible for deletion.

Body worn videos will be purged from the server after 120 days if they are not attached to an L-3 Case.

307.10.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Audio/video recordings are classified as private. The purpose for this classification includes, but is not limited to:

- To preserve the reasonable expectation of privacy of those depicted in the recordings;
- Recordings are used as a resource to evaluate a deputy's performance in their interactions with the community;
- Recordings are evaluated to identify and address training needs.

Requests for the release of private audio/video recordings shall be processed in accordance with UCA 63G-2-101, or with permission from the Sheriff or his designee.