Portable Audio/Video Recorders

419.1 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. These recording systems may be commonly referred to as Mobile Audio Video (MAV) recording systems.

This policy does not apply to authorized undercover operations.

419.2 POLICY
The Bainbridge Island Police Department shall provide members with access to portable recorders, either audio or video or both, in-car video cameras with the capability of, at a minimum, both front and rear facing, and equipment that automatically activates the MAVs, both portable and in-car, when certain events occur (holster sensor activation, emergency light activation, other officer activation) 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.

419.3 DEFINITIONS
Advisement – Statement made by an officer that a communication, conversation or interaction with a citizen is being recorded.

Activation – The process that turns on the MAV and causes it to record or to store audio and video data.

Body Camera – Camera system that captures audio and video signals, capable of being worn on an officer’s person that includes at minimum a camera, microphone, and recorder.

Mobile Audio Video (MAV) - Portable audio/video recording devices including all recording systems whether body-worn, hand held or integrated into portable equipment.

In-Car Camera – Camera system that captures audio and video signals, installed or attached to an officer’s patrol vehicle.

419.4 COORDINATOR
The Chief of Police or the authorized designee should appoint a coordinator responsible for overseeing compliance with this policy and for: 

Copyright Lexipol, LLC 2020/09/30, All Rights Reserved. Published with permission by Bainbridge Island Police Department
Portafle Audio/Video Recorders

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

419.5 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 the 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.

419.6 MEMBER RESPONSIBILITIES
Prior to going into the field, 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.

Unless conducting a lawful recording in an authorized undercover capacity, members shall notify those people in direct contact with the member that they are being recorded as soon as practical, and the notification should, when practical, be on the recording.

Members will document the existence of a MAV 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 will include the reason for deactivation unless the reason for the deactivation is dictated by the member at the time the recording was made.

419.7 ACTIVATION OF MAV
This policy is not intended to describe every possible situation in which the MAV system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes it would be appropriate or valuable to document an incident. In some circumstances it is not possible to capture images of the event due to conditions or the location of the camera. However, the audio portion can be valuable evidence and should be activated if safe to do so.

The MAV system will be activated in any of the following situations:

(a) All field contacts involving actual or potential criminal conduct within video or audio range
Portable Audio/Video Recorders

(b) Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
(c) Priority responses
(d) Vehicle pursuits
(e) Suspicious vehicles and suspicious persons
(f) Arrests
(g) Vehicle searches
(h) Physical or verbal confrontations or use of force
(i) DWI/DUI investigations including field sobriety tests
(j) Crimes in progress
(k) Responding to an in-progress call

Self-initiated activity in which the officer believes that there may be evidentiary value in activating the MAV system

Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:
   (a) Domestic violence calls
   (b) Disorderly conduct calls
   (c) Offenses involving violence or weapons

Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise be recorded

Any other circumstance where the officer believes that a recording of an event would be appropriate

Members will activate the portable recorder to record the above events, even if the event is out of view of the camera. If circumstances prevent recording at the beginning of an event, the member will begin recording as soon as practical.

Employees will notify persons placed under arrest, while being recorded, they are being recorded and verbally give Miranda warnings on the recording.

Employees shall make a reasonable effort to ensure that non-English speakers, those with limited English proficiency, deaf persons, or persons hard of hearing understand that they are being recorded.
Members will ask for consent to record in residences or other private areas not open to the public unless there is a crime in progress or other circumstances exist that would allow the member to be lawfully present without a warrant. The consent to be being recorded should be recorded on the MAV, when practicable.

Members will not record inside of a healthcare facility unless investigating a crime or present with a search warrant. MAV may be activated in exigent circumstances inside of a healthcare facility.

Safety is paramount, including officers, citizens and suspects. At no time is a member expected to jeopardize his/her safety, or the safety of others in order to activate a portable recorder or change the recording media. The MAV should be activated in situations described above as soon as reasonably practicable without jeopardizing safety.

419.7.1 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

Washington law prohibits any individual from surreptitiously recording any private conversation, except as provided in RCW 9.73.040, RCW 9.73.090 and RCW 9.73.210.

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

419.7.2 CESSATION OF RECORDING

Once activated, the MAV shall 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.

419.7.3 DECISION TO NOT RECORD

The decision to not record law enforcement activity shall be made by the officer wearing the camera and shall be justified by facts and circumstances. Facts supporting such a decision may include the following:

(a) When unsafe or impractical – Law enforcement activity requiring a response that prevents an officer from activating the MAV. Officers are advised to put safety ahead of the requirement to record the encounter.

(b) Sensitive communications – Law enforcement activity involving matters of law enforcement intelligence or where recording the encounter could hinder a criminal investigation. Members have discretion to not record conversations with crime victims, witnesses, and members of the community who wish to report or discuss criminal activity in confidentiality.
Portable Audio/Video Recorders

(c) When a citizen objects to being recorded – Members are required to record incidents as described in this Policy. The objection of a citizen is not a sufficient basis to stop recording. However, a member may exercise discretion not to record if it reasonably appears to the member that the dignity and privacy of individuals being recorded outweighs any legitimate law enforcement interest in recording.

Officer shall document, by written report, CAD notes, or on the MAV recording itself, any decision to not activate, or to turn off the MAV prior to the conclusion of incident, and their reasons for doing so.

419.7.4 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.

419.8 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 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.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the chief of police. 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.

419.9 IDENTIFICATION AND PRESERVATION OF RECORDINGS
To assist with identifying and preserving data and recordings, the City shall provide services/programs to download, categorize, and label videos in conjunction with the current Computer Aided Dispatch system used by the Department. Members will download MAV recordings in accordance with Department procedure and document the existence of the recording in any related case report. If a download is not completed before the end of a member’s shift, the member should notify a supervisor and complete the download when practical on the first on-duty opportunity.
Portable Audio/Video Recorders

A member should transfer, tag or mark recordings when the member reasonably believes the MAV was made outside of a CAD call and:

(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.

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.

419.10 RETENTION OF RECORDINGS
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 of less than 60 days. Data will be collected and stored in a secure manner.

419.10.1 RELEASE OF AUDIO/VIDEO RECORDINGS
Requests for the release of audio/video recordings shall be processed in accordance with applicable law and Department policy.

419.11 REVIEW OF RECORDED MEDIA FILES
MAV will not be used as the sole means to supervise officer behavior while on duty. MAV recordings will not be used to monitor officer performance, conduct, or policy compliance except as permitted by this policy.

Members shall not access recorded data for personal use, or to retain personal copies of recordings. Members must submit a formal public records request in order to obtain and retain a personal copy of a MAV.

Recordings may be reviewed in any of the following situations:

(a) By the members for use when preparing reports or statements. Members should review the MAV recordings as a resource, and are not required to watch MAV recordings prior to preparing a report or a statement. Members should not use the fact that a MAV recording was made as a reason to write a less detailed report.

(b) By a supervisor and/or investigator who is investigating a report of meritorious conduct, a specific act of officer conduct that has been logged and assigned a complaint identification number, an administrative inquiry, or a criminal investigation.
Portable Audio/Video Recorders

For noncriminal investigations, prior to the review, if legally permissible, the involved officer and the Bainbridge Island Police Guild (Guild) will be provided notice of the review, and the involved officer and their Guild representative will be given the opportunity to be present during the review of the MAV.

(c) To assess proper functioning of MAV systems.

(d) When authorized by the Chief of Police, including but not limited to, review of collisions and vehicle pursuits.

(e) By an officer who is captured on or referenced in the MAV recording and needs such data for any purpose relating to his/her employment with permission of the Chief of Police or authorized designee.

(f) By court personnel through proper process or with permission of the Chief of Police or authorized designee.

(g) By the media personnel through proper process or with permission of the Chief of Police or authorized designee.

(h) To assess possible training value. Recordings may be shown for training purposes unless an involved officer objects to showing a recording.

(i) For purposes of records management and responding to public records requests.

All recordings should be reviewed by the Public Records Officer or designee prior to public release. Officers shall not perform video redaction duties.

419.12 TRAINING

Before a member deploys a portable recorder, the member will complete Department training on the proper use of the equipment and procedures for uploading recordings. This training will include proper camera operation and placement, Department policy on camera usage and applicable state law, and recording advisements. Supervisors will ensure that those members issued a portable recorder receive this initial training upon issue. Training will be reviewed or renewed at least annually.