Portable Audio/Video Recorders

450.1 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 (RCW 10.109.010). 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 Issaquah Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

450.2 POLICY
The Issaquah 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.

450.3 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 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.

450.4 MEMBER RESPONSIBILITIES
Prior to going into service, each uniformed member will check their car kits in an effort to carry a portable audio recorder. If the kit contains a recorder, test to assure that the recorder is in good working order.

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.

When using a recorder, the assigned member shall record his/her name, employee number and the current date and time at the beginning and the end of each period of use.

450.5 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 should be activated in any of the following situations:
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(a) All enforcement and investigative contacts including stops and field interview (FI) 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 the Communications Center

(d) 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 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.

No member of this department may record a face-to-face conversation without first announcing to everyone present that the conversation is going to be recorded and ensuring the announcement is recorded except pursuant to a warrant, or when the communication is of an emergency nature or relates to communications by a hostage holder or barricaded suspect (RCW 9.73.030).

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.

450.5.1 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

Washington law prohibits any individual from surreptitiously recording any 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.

450.5.2 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.

450.5.3 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.
450.6 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 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 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, 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.

450.7 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 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.

450.8 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.

450.9 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 less than 180 days.

450.9.1 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.