

PORTABLE VIDEO RECORDING DEVICES

420.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable video recording devices by agency law enforcement officers while in the performance of their duties, other than portable video recordings, interviews or interrogations conducted at any Natural Resources or allied agency facility, covert operations, wiretaps or when utilizing a concealed listening devices.

Portable video recording devices include all video recording systems whether body-worn, hand held or integrated into other portable equipment (Utah Code 77-7a-102).

420.2 POLICY

The Utah Department of Natural Resources may provide officers with access to portable video recorders for use in the performance of their duties. The use of these devices is intended to enhance the mission of the Department by capturing contacts between officers and the public.

Officers will comply with the video recording device-use expectations defined herein and comply with any procedural direction established by the Portable Video Recording Coordinator.

Intentional deviation from this policy or any related procedure established by the coordinator may result in disciplinary action carried out in accordance with associated Department of Human Resources Management (DHRM) rule.

420.3 PORTABLE VIDEO RECORDING COORDINATOR

The Law Enforcement Director or their authorized designee should designate a portable video recording 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.

The coordinator will make related procedures broadly available, in written form, and ensure field staff are notified of relevant procedural updates through the chain of command.

420.4 OFFICER PRIVACY EXPECTATION

All video recordings made by officers on any agency-issued device at any time, and any recording made while acting in an official capacity, regardless of ownership of the device it was made on, shall remain the property of the Department.

Officers shall have no expectation of privacy or ownership interest in the content of these recordings.

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420.5 OFFICER RESPONSIBILITIES

(a) Prior to going into service, each uniformed officer equipped with a portable video recorder issued by the agency, shall ensure that the recorder is in good working order. If the recorder is not in working order or the officer becomes aware of a malfunction at any time, the officer shall promptly report the failure to their supervisor and obtain a functioning device as soon as reasonably practicable.

1. Patrol staff,

i. participating in a uniformed, or non-uniformed patrol effort, shall carry and utilize an approved portable recording device unless prior written approval has been granted by the officer's direct supervisor, to do so without a recording device.

ii. commuting to training or to work locations to perform administrative duties may choose not to wear their video recording device but should have the device in their possession in case their duties change during the day.

2. Investigative staff assigned to a non-uniformed position may utilize an approved portable recorder at any time the officer believes that such a device may be beneficial.

3. Sworn uniformed staff, of lieutenant rank and above;

i. shall utilize an approved portable recorder when performing in a uniformed patrol capacity.

ii. may utilize a portable recorder while performing administrative functions or commuting to training or work locations, but should have the device in their possession in case their duties change during the day.

(b) When using a portable video recorder, the assigned officer shall record their name, radio call sign, 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 captures the officer's unique identification and the date and time of each recording (Utah Code 77-7a-104).

(c) Officers 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 officer deactivated the recording. Officers shall include the reason for deactivation (Utah Code 77-7a-104).

420.5.1 NOTICE

(a) Sworn staff shall wear a portable video recorder in a conspicuous manner so that it is clearly visible to the person being recorded.

(b) Notice should be given when reasonable under the circumstances, to:

(i) the occupants of a private residence in which the officer enters and in which a portable video recorder is in use; or

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(ii) a health care provider present at a hospital, a health care facility, human service program, or a health care provider's clinic in which the officer enters and in which a body-worn camera is in use.

420.6 ACTIVATION OF PORTABLE VIDEO RECORDER

This policy is not intended to describe every possible situation in which a portable video recording device should be used, although there are many situations where its use is appropriate. Officers should activate the recorder any time they believe it would be appropriate or valuable to record an incident.

The portable video 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 an officer would normally notify the Dispatch Center
- (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
- (f) Dispatched calls for service
- (g) Execution of a warrant

Officers 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 officer that such privacy may outweigh any legitimate law enforcement interest in recording. Requests made by 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 an officer expected to jeopardize their safety in order to activate a portable video recording device or change the recording media (Utah Code 77-7a-102). However, the device should be activated in situations described above as soon as reasonably practicable (Utah Code 77-7a-104).

420.6.1 CESSATION OF RECORDING

Once activated, the portable video recording device should remain on continuously until the officer reasonably believes their direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped (Utah Code 77-7a-104):

- (a) 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.
- (b) When speaking with a victim, witness, or person wishing to report or discuss criminal activity if both of the following apply:

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1. The individual who is the subject of the recording requests deactivation.
 2. The officer believes the value of the information outweighs the value of the potential recording.
- (c) During a conversation with a victim of a sexual offense or domestic violence if:
1. The officer is conducting an evidence-based lethality assessment.
 2. The victim or the officer believes that deactivating the body-worn camera recording will either:
 - i. Encourage complete and accurate information sharing by the victim, or
 - ii. Is necessary to protect the safety or identity of the victim.
 3. The body-worn camera is reactivated as soon as reasonably possible after the evidence-based lethality assessment is complete.

The officer should record the request to deactivate the portable video recorder.

An officer should document any instance where they should have activated their portable video recording device but failed to do so, and the reason for the failure (Utah Code 77-7a-104) in an appropriate RMS-system report or other official record of the contact.

420.6.2 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.

420.7 PROHIBITED USE OF PORTABLE RECORDERS

Officers are prohibited from using agency-issued portable recorders for personal use and are prohibited from making personal copies of recordings created while on duty or while acting in their official capacity. Officers may not alter or delete a recording captured on a portable recorder (Utah Code 77-7a-106).

Officers are also prohibited from retaining recordings of activities or information obtained while on duty whether the recording was created with a agency-issued or personally owned device. Officers shall not duplicate or distribute such recordings, except for authorized legitimate business purposes. All such recordings shall be retained at an agency facility (Utah Code 77-7a-106).

Officers are prohibited from using personally owned recording devices while on duty without the express consent of a supervisor in their chain of command holding the rank of Lieutenant, or above. Any officer who uses a personally owned recorder for agency related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify their supervisor of such use as soon as reasonably practicable.

Recordings shall not be solely used by any officer for the purpose of embarrassment, harassment or ridicule.

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420.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings officers should download, tag or mark these in accordance with established procedures and document the existence of the recording in any related report(s).

An officer should transfer and appropriately tag or mark recordings when the officer 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 a person's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.
- (g) Recorded content contains sound or images from a residence (Utah Code 63G-2-302).
- (h) Recorded content contains sound or images from a hospital, health care facility, human service program or the clinic of a health care provider (Utah Code 63G-2-305).

Any time an officer reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the officer should promptly notify a supervisor of the existence of the recording.

420.9 RETENTION OF RECORDINGS

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule and as required by any applicable federal, state and local law (Utah Code 77-7a-107).

420.9.1 RELEASE OF RECORDINGS

Requests for the release of video recordings shall be processed in accordance with related state code, administrative rule and/or agency policy.

420.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, officers should review their video recordings as a resource. However, officers shall not retain personal copies of recordings. Officers should not use the fact that a recording was made as a reason to write a less detailed report.

First-line supervisory staff should randomly select and review recorded officer contacts to perform standard of service audits.

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 officer's performance.

Recorded files may also be reviewed:

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- (a) Upon approval of a supervisor, by any department officer 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 Law Enforcement Director or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with related agency policy..

All recordings should be reviewed by the law enforcement records specialist prior to public release. Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released, unless disclosure is required by law or by order of the court.

420.11 SUPERVISORY USE OF LIVE-FEED FUNCTION

Supervisory use of Live-Feed functionalities, where available, shall be limited to those situations where a bona-fide concern for officer safety exists, or where urgent and articulable need exists to provide situational awareness to decision-makers coordinating agency response to a critical incident or other high-risk situation.

In each instance, Live-Feed use shall be documented by the appropriate supervisor within the video system log, with the reason behind the use detailed appropriately.

420.12 PUBLIC ACCESS

Law enforcement administrative staff shall ensure this policy is published to the agency website and will provide a printed copy to members of the public, upon request (UCA 77-7a-105).