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## Portable Audio/Video Recorders

### 422.1 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 In-Car Video recordings, interviews or interrogations conducted at any North Liberty Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

### 422.2 POLICY

The North Liberty 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.

### 422.3 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 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.

### 422.4 MEMBER RESPONSIBILITIES

Prior to going into service for daily patrol operations, each uniformed patrol 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. Uniformed patrol members, or members individually assigned a portable recorder, should wear the recorder in a conspicuous manner on the outermost clothing on the upper torso.

Uniform patrol members will take priority in the availability and use of body-worn cameras, since not every member is individually assigned a device. Members are not required to inform the public of the recording, but will disclose of its use upon inquiry.

Any member assigned to a non-uniformed position (i.e., investigations, or specialty assignment) shall carry an approved portable recorder at any time that such a device may be useful or required by law. For planned events with non-uniformed members (i.e., arrest, use of force situation, search or arrest warrant service) the audio/video recorder should be used. If the event is unplanned or a device is not available, the member should team up with a member with a recording device for any enforcement action, as soon as practical. Unless conducting a lawful recording in an authorized

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undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable, or the officer is surreptitiously recording the person in accordance with section 422.6.2 below.

When using a recorder, the assigned member shall record his/her name, NLPD 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 captures the user's identification, assigned vehicle identification, and the date and time of each recording.

Officers that are not assigned to daily patrol functions may be driving department owned vehicles and may take immediate enforcement action when necessary, and reasonable, to protect the public. In these immediate circumstances, a body-worn camera, unless individually assigned, will not be available. However, these members will call for a patrol officer as soon as practical with a portable recording device and team up to conduct business. (See also the Vehicle Use Policy.703).

Members should document the existence, or nonexistence, of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned, or the member muted the audio or deactivated the recording. Officers should include the reason for deactivation or reason a recording is not available in their narrative report.

#### **422.5 SUPERVISOR RESPONSIBILITIES**

Supervisors shall periodically review recordings to ensure members are wearing and using portable audio/video recorders consistent with this policy.

Supervisors will make sure body-worn cameras are turned in and docked at the end of patrol shifts, since the transfer of the data is automatic.

Supervisors will make sure detectives have downloaded and transferred the recorded data from their recording device onto the city server or the record's management system.

#### **422.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER**

This policy is not intended to describe every possible situation in which the recorder should or should not be used, although there are many situations where its use is appropriate. If officers have questions, they should ask their supervisor. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations.

- (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 JECC

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- (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.

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. Members are also encouraged to activate their recorders prior to arrival at the scene, if the details provided by dispatch potentially may be viewed as adversarial, hostile, or dealing with an uncooperative individual.

#### 422.6.1 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. Recordings may be stopped:

- (a) during non-confrontational situation if the person is unwilling to provide a recorded statement
- (b) interviewing a victim of a sensitive crimes such as a sexual assault or child abuse
- (c) when inside a medical facility to prevent sensitive, private or unnecessary recordings
- (d) interactions with a confidential informant
- (e) to discuss police strategy or charging decisions and resume recording when finished
- (f) when directing traffic
- (g) when there is no evidentiary value.

If a recording is stopped or the audio is muted for one of the exception, explain on the recording or document the reason for stopping and resume recording if the event continues.

Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

#### 422.6.2 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

Iowa law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission.

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.

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

#### 422.6.3 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.

#### **422.7 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 an official capacity. Members may not access and view recordings while off duty or share/allow recordings to be viewed by third parties without prior authorization.

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 Shift Supervisor. 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.

#### **422.8 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.

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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.

All tagging of recordings will be completed by the end of the member's shift unless express exemption has been provided by the member's immediate supervisor. Tagging can be completed on a personal cell phone device/app, MDT, or from the use of the office computers.

#### **422.9 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 a 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) The training coordinator may view, and with approval of a supervisor, use recordings for in-house training.
- (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
  - (a) Recordings will be subjected to the same security restrictions and chain of evidence safeguards as any other evidence.
  - (b) The prosecuting attorney's office is authorized to release recordings to the defense of pending cases and for court purposes.
  - (c) Recordings will not be released to another criminal justice agency for trial, or other reasons, without being downloaded on the City's Server, or uploaded to our secured third party cloud storage, or a copy being housed locally.
  - (d) Recordings will not be released to other bona fide criminal justice agencies without prior approval of the Chief of Police.
- (d) By media personnel with permission of the Chief of Police or the authorized designee.
- (e) In compliance with a public records request, if the case is closed and permitted by Iowa Law, 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).

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#### **422.10 COORDINATOR**

The Investigation Lieutenant is designated as the 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 and reviewing mandatory training and policy review during the Field Training Program for new officers and annual training for all members.
- (f) Annually reviewing this policy and evaluate the equipment and procedures for audio/video recordings.

#### **422.11 PUBLIC RELEASE OF AUDIO/VIDEO RECORDINGS**

The Iowa Open Records Law considers audio/video recordings as part of the officer's investigative report and may be subject to release. However, consideration will be given to all exceptions to release such as:

- (a) Confidential information such as an ongoing investigation -Iowa Code Chapter 22.7
- (b) Intelligence information -Chapter 692
- (c) Juvenile information - Chapter 232 and 915.

If a video is released to the public, redacting of videos will utilize the software enabled capabilities (i.e., skin blur feature for all individuals, and removing any personal identifying information to protect privacy and prevent identity theft).

#### **422.12 RETENTION OF RECORDINGS**

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule but in no event for a period less than 30 days. Recordings not schedule for court proceedings, other adversarial events, or department uses shall be maintained for the minimum retention period.All recordings shall be maintained in a manner that allows efficient identification and retrieval.

Retention Periods will be:

- (a) (a) Citizen Contact without enforcement - 30 days
- (b) Citizen Contact with enforcement, (e.g., traffic stops, vehicle searches) - 180 days
- (c) Physical arrest/detention - 720 days
- (d) Incident Reports or any other report taken- 365 days

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- (e) If it is known or suspected that a recording will need to be retained for a longer period of time, members will inform the records department to retain the video for an additional 720 days.
- (f) Pending investigations or active arrest warrants recordings will be retained indefinitely or until the case falls under one of the above categories.
- (g) Recordings may be made and kept for other internal reporting procedures by the Chief of Police (e.g., officer complaints, use of force events, vehicle pursuits, personal injury incidents, or damage of property)

If a recording is on a disk and placed in evidence and the original file or recording system no longer exists, the disk copy will be considered the original and all copies will be made from the disk.

#### **422.13 DELETION**

Recording software may show that a file was deleted. The Custodian of Records may delete recordings that:

- (a) Have not been flagged
- (b) Retention period has expired.
- (c) Accidental/Inadvertent recordings, unless it meets the Preservation of Recording Section of this policy listed above.
- (d) Recordings that have been archived or stored in another manner (e.g., disk, server or secured cloud storage).

##### **422.13.1 TAMPERING**

Employees shall not tamper with recording equipment, change any settings disconnect any cable or wiring or perform any other action that will disable the equipment or limit its capabilities. Employees are prohibited from manipulating any data stored on the secured server except for making copies as noted above. Annually, the Investigations Lieutenant and the IT department shall conduct an audit of the system to ensure the security settings are intact and no unauthorized deletions have occurred. The audit reports will be supplied to the Chief of Police. Any unauthorized activity on the system will be investigated.