
Portable Audio/Video Recorders (PRDs)

423.1 PURPOSE AND SCOPE

This policy provides guidelines for the proper use, management, storage and retrieval of portable audio/video recording devices (PRDs) by members of this Department while in the performance of their duties. PRDs include all recording systems whether body-worn, hand held or integrated into portable equipment.

It is the policy of the Department to respect the legitimate privacy interests of citizens and visitors to NSHE facilities, while ensuring professionalism in its work force when utilizing PRDs.

PRDs are an effective tool to preserve factual representations of member-citizens interactions

This policy does not apply to lawful surreptitious recordings, interviews or interrogations conducted at any Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices), or to mobile audio video recordings (see the Mobile Audio Video Policy).

423.2 POLICY

The Department may provide members with access to PRDs, either audio or video or both, for use during the performance of their duties. PRDs are effective in capturing video and audio evidence for use in criminal and internal investigations, enhance member training, and can strengthen public trust.

423.3 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.

423.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a PRD issued by the Department, and that the PRD is in good working order (NRS 289.830). If the PRD 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 members should wear the PRD in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Any member assigned to a non-uniformed position may carry an approved PRD at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the PRD in a

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conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a PRD, the assigned member shall record his/her name, UNLV PD 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 unique identification and the date and time of each recording.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the PRD malfunctioned or the member deactivated the recording, including the reason for deactivation.

423.5 ACTIVATION

This policy is not intended to describe every possible situation in which the PRD should be activated. Members shall activate the PRD any time the member believes it would be appropriate or valuable to record an incident.

The PRD shall be activated in any of the following situations (NRS 289.830):

- (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) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Members must be mindful of protecting the privacy of persons who:

- (a) are inside a private residence or dorm room;
- (b) are seeking to report a crime or provide information regarding a crime or ongoing investigation anonymously; or
- (c) are claiming to be a victim of a crime.

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 PRD or change the recording media. However, the PRD shall be activated in situations described above as soon as reasonably practicable. Violations of this policy may subject the member to disciplinary actions.

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Activation of the PRD is not required during periods of unassigned time, breaks or lunch periods, or when not in service.

Members will:

- Document the existence of a portable recording in all field interviews, investigative reports, and arrest documents.

Members will not substitute "refer to video" or other similar language in place of a detailed and thorough report. Members should avoid using exact quotes, but should represent statements in their reports as a summary of what is contained in the portable recording.

Supervisors will:

- Ensure all portable recording Members utilize the devices in accordance with this policy.

423.5.1 SURREPTITIOUS USE OF THE BODY WORN CAMERA

Nevada law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (NRS 200.650).

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.

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

423.5.2 CESSATION OF RECORDING

Once activated, the PRD should remain on continuously until the member reasonably believe 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 (NRS 289.830).

423.5.3 EXPLOSIVE DEVICE

Many PRDs, including body-worn devices and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, PRDs should not be used where an explosive device may be present.

423.6 DEACTIVATION

Once activated, members will continue to record for a short period after the event to demonstrate clearly to a subsequent viewer that the incident has concluded and the member has resumed other duties or activities.

Members have discretion to deactivate the PRD under the following circumstances:

- The incident has concluded prior to the arrival of the member;

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- The incident or event is of such duration that deactivating the PRD is necessary to conserve available recording time;
- The PRD controller's battery light-emitting diode (LED) is red, indicating the remaining capacity is less than 20%, does not require activation of the PRD until arrival on scene unless traveling Code 3;
- The member has a reasonable belief there will be no loss of critical documentary information (for example, completing reports at the conclusion of an event, etc.);
- Investigative personnel arrive and begin the formal investigative process;
- Arrival at any detention facility and just prior to entering the booking area. Members will NOT activate the PRD inside any detention facility;
- Detectives, K-9's, or other units who are on-call while traveling to the incident. Activation will occur once arrived and individual member deployment begins;
- Officers who are responding to calls for service will activate their PRDs when they are within five miles of arrival or when responding Code 3.

423.7 PRD DEPLOYMENT

At the beginning of shift, the member will:

1. Ensure that the issued equipment has a fully charged battery and is functioning properly;
2. Notify a supervisor whenever there is a malfunction or damage to the portable recorder and document the malfunction/damage.

During shift, the member will:

1. Activate the PRD and record as outlined in Activation above
2. Record in accordance with this policy for a short period (at a minimum, 30 seconds) after the event to demonstrate clearly to a subsequent viewer that the incident has concluded and the member has resumed other duties or activities;
3. If a member fails to activate the PRD or the PRD malfunctions, the member will document the circumstances and reason as a closing comment to the event on the CAD entry and in any applicable reports.

Supervisor responsibilities:

1. Ensure all portable recording Members utilize the devices in accordance with this policy;

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2. Ensure any malfunction or damage to a PRD is documented. The supervisor will remove the PRD from service and contact the assigned Lieutenant for the shift.

423.8 RESTRICTIONS

Restrictions

PRDs shall be used only in conjunction with official law enforcement duties. The PRD shall not be used to record:

1. Any personal conversation of or between other Department employees without the recorded employee's knowledge (see Surreptitious Use of the Audio PRD);
2. Non-work related personal activity, and will not be activated in places where a reasonable expectation of privacy exists, such as locker rooms, dressing rooms or restrooms;
3. Major crime investigative briefings without ranking personnel approval;
4. Encounters with undercover Members or confidential informants;
5. Departmental meetings, workgroups, in-service training, or assignments of an operational or administrative nature. Using body devices for training purposes is not a violation of this restriction.

423.9 PROHIBITED USE OF PRDS

Members wearing PRDs shall not activate the PRD for reasons other than investigating a crime or offense (no recording of public activity unrelated to a specific offense, NRS 289.830).

Members are prohibited from using Department-issued PRDs 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 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 PRDs. 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 PRDs while on-duty without the express consent of the Shift Sergeant. Any member who uses a personally owned PRD 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.

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423.10 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 member or confidential informant.

423.11 TRAINING

The PRD will only be worn and used by members who have attended Department approved training on the operation of the system. All supervisors of portable recording members and other personnel who may access or otherwise be involved with PRDs must also attend this training.

423.12 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource. (See the Member-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.

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.

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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.

423.13 COORDINATOR

The Chief of Police or the authorized designee should designate a 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.

423.14 BALANCING PRIVACY CONCERNS

Members have discretion to deactivate the PRD when privacy concerns outweigh law enforcement interests and the absence of a portable recording will not affect the investigation. Members should evaluate each situation and, when appropriate, deactivate the PRD. The decision to deactivate a PRD should be stated prior to deactivation. If a PRD is being deactivated in response to a citizen request, the request to turn the camera off should be recorded, as well as the member's response. The following are examples of when an member may exercise discretion:

- A citizen has requested the member stop recording. Members have no obligation to stop recording in response to a citizen's request if the recording is pursuant to law enforcement activities, or the circumstances clearly dictate that continued recording is necessary. However, Members should evaluate the situation and, when appropriate, honor the citizen's request;
- A citizen with standing has requested the member stop recording within the citizen's residence/structure and the member has entered the residence/structure on consent. As a general rule, if an member must legally ask permission to enter a premise, a citizen with standing may put conditions on the member's entry such as deactivation of the PRD;
- If a victim or witness requests not to be recorded or is uncomfortable with being recorded:
 - Members may consider asking a non-consenting victim or witness if they would agree to the option of diverting the camera away and recording only audio.
- Members should be mindful of locations such as places of worship, certain locations in hospitals or clinics, law offices, and day care facilities, where recording may be considered insensitive, inappropriate, or prohibited by privacy policies.

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423.15 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 21 days.

423.15.1 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.

The release of any recordings to media outlets will be in strict compliance with this and: the Community Relations policy, the UNLV Office of Media Relations, the UNLV Office of General Counsel, and in accordance with the Records Release and Security Policy.