

Portable Audio/Video Recorders (PRDs)

422.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices (PRDs) by officers of this Department while in the performance of their duties. PRD's 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 of Clark County, while ensuring professionalism in its work force.

PRDs are an effective tool to preserve factual representations of officer-citizens interactions. PRDs are effective in capturing video and audio evidence for use in criminal and internal investigations, enhance officer training and public trust

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

422.2 POLICY

The Department may provide officers with access to PRDs 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 officers of the Department and the public.

422.3 OWNERSHIP

All recordings made by officers 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.

422.4 OFFICER RESPONSIBILITIES

Prior to going into service, each uniformed officer will be responsible for making sure that he/she is equipped with a Department-issued PRD, and that it is in good working order (NRS 289.830). If the PRD is not working, or the officer becomes aware of a malfunction at any time, the officer shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed officers should wear the PRD in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Any officer assigned to a non-uniformed position may carry an approved PRD at any time the officer believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed officers should wear the PRD in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

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When using a PRD, the assigned officer 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 PRD and related software captures the user's unique identification and the date and time of each recording.

Officers 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 officer deactivated the recording. Officers should include the reason for deactivation.

422.5 ACTIVATION OF THE PORTABLE RECORDER

This policy is not intended to describe every possible situation in which the PRD should be used., Although there are many situations where its use is appropriate, Officers should activate the PRD any time the officer believes it would be appropriate or valuable to record an incident.

The PRD should 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) Self-initiated activity in which an officer would normally notify Dispatch
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Officers should exercise sound discretion to respect the privacy of individuals by discontinuing recording whenever it reasonably appears to the officer 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 an officer expected to jeopardize his/her safety in order to activate a PRD or change the recording media. However, the PRD should be activated in situations described above as soon as reasonably practicable.

422.5.1 SURREPTITIOUS USE OF THE PRD

Nevada law permits an individual to record any conversation in which one party to the conversation has consented (NRS 200.650).

Officers may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be lawful and beneficial to the investigation.

Officers shall not surreptitiously record another officer without his/her permission, or unless lawfully authorized by the Chief of Police, or the University authorized designee.

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422.5.2 CESSATION OF RECORDING

Once activated, the PRD should remain on continuously until the officers 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).

422.5.3 EXPLOSIVE DEVICE

Many PRDs, 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.

422.5.4 MANDATORY RECORDING

Uniformed officers are required to activate their PRDs whenever responding to a call for service or initiating a law enforcement or investigative encounter. The PRD should be deactivated to protect the privacy of any person when in a private residence or when a person asks to provide information anonymously or is claiming to be the victim of a crime (NRS 289.830).

422.6 DEACTIVATION

Officers 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 officer has resumed other duties or activities.

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

- The incident has concluded prior to the arrival of the officer;
- 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 officer 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. Officers 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 officer deployment begins;
- Resident 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.

422.7 PRD DEPLOYMENT

At the beginning of shift, the officer will:

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

During shift, the officer will:

1. Activate the PRD and record as outlined in Activation above
2. Continue to record 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 officer has resumed other duties or activities;
3. If an officer fails to activate the PRD or the PRD malfunctions, the officer 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 PRD officers utilize the cameras in accordance with this policy;
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;

422.8 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 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 officers or confidential informants;
5. Departmental meetings, workgroups, in-service training, or assignments of an operational or administrative nature. Using PRDs for training purposes is not a violation of this restriction

422.9 PROHIBITED USE OF PRDS

Officers are prohibited from using Department-issued PRDs for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in an official capacity.

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Officers 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. Officers shall not duplicate or distribute such recordings, except for authorized legitimate Department business purposes. All such recordings shall be retained at the Department.

Officers are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Sergeant. Any officer who uses a personally owned device 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 officer for the purpose of embarrassment, harassment, or ridicule.

422.9.1 PROHIBITED ACTIVATION

Officers wearing PRDs shall not activate the recorder for reasons other than investigating a crime or offense or as otherwise authorized by this policy. There should be no recording of general activity unrelated to a law enforcement purpose (NRS 289.830).

422.10 IDENTIFICATION AND PRESERVATION OF RECORDINGS

At the end of each shift, officers shall download, tag, or mark recordings in accordance with Department policies and procedures. Officers shall document the existence of the recording in any related case report.

An officer should transfer, tag and mark recordings when the officer reasonably believes that the recording contains evidence relevant to potential criminal, civil, or administrative matters.

422.11 TRAINING

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

422.12 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, officers should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). 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.

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 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, and the Office of General Counsel, prior to public release (see the Records Maintenance, Security 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.

422.13 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.

422.14 BALANCING PRIVACY CONCERNS

Officers have discretion to deactivate the PRD when privacy concerns outweigh law enforcement interests and the absence of a recording will not affect the investigation. Officers 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 officer's response. The following are examples of when an officer may exercise discretion:

- A citizen has requested the officer stop recording. Officers 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, officers should evaluate the situation and, when appropriate, honor the citizen's request;
- A citizen with standing has requested the officer stop recording within the citizen's residence/structure and the officer has entered the residence/structure on consent. As a general rule, if an officer must legally ask permission to enter a premise, a citizen with standing may put conditions on the officer's entry such as deactivation of the portable recorder;
- If a victim or witness requests not to be recorded or is uncomfortable with being recorded:

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- Officers 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.
- Officers 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.

422.15 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.

422.15.1 RELEASE OF PRD RECORDINGS

Requests for the release of PRD recordings shall be processed in accordance with the Records Maintenance, Security and Release Policy.