

Portable Audio/Video Recorders

463.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by officers 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 vehicle audio/video recordings, interviews or interrogations conducted at any Yolo County Probation Department facility or authorized undercover operations.

463.2 POLICY

The Yolo County Probation Department may provide officers 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 officers of the Department and the public.

463.3 COORDINATOR

The Chief Probation Officer or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including :

- (a) Establishing a system for downloading, storing and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.

(See Pen. Code §832.18)

463.4 EMPLOYEE PRIVACY EXPECTATION

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

Portable Audio/Video Recorders

463.5 EMPLOYEES RESPONSIBILITIES

Any officer may carry an approved portable recorder 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 recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a portable recorder, the assigned officer shall record his or her name, YCPD identification number and the current date and time at the beginning and the end of the incident 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.

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 should include the reason for deactivation.

463.5.1 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is properly secured and downloaded. (See Pen. Code § 832.18.)

463.6 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. Officers should activate the recorder any time the officer believes it would be appropriate or valuable to record an incident.

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 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 or her safety in order to activate a portable recorder or change the recording media.

463.6.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the officer reasonably believes that his or her direct participation in the incident is complete.

Officers shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation. (Pen. Code § 636.)

Yolo County Probation Department

Policy Manual

Portable Audio/Video Recorders

463.6.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Officers of the Department 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 Department employee without a court order unless lawfully authorized by the Chief Probation Officer or the authorized designee.

463.6.3 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.

463.7 PROHIBITED USE OF PORTABLE RECORDERS

Employees 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.

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

Employees are prohibited from using personally owned recording devices while on-duty without the express consent of the Chief Probation Officer or designee. Any employee 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 Supervisor of such use as soon as reasonably practicable.

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

A violation of this policy may result in discipline up to and including termination.

463.7.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited. (Pen Code § 832.19)

463.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, officers should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

Portable Audio/Video Recorders

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.

463.9 RETENTION OF RECORDINGS

Recordings of the following should be retained for a minimum of two years :

- (a) Incident involving use of force by an officer
- (b) Officer-involved shootings
- (c) Incidents that lead to the detention or arrest of an individual
- (d) Recordings relevant to a formal or informal complaint against an officer or the Yolo County Probation Department

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution.

All other recordings should 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.

Records or logs of deletion of recordings should be retained permanently.

463.9.1 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.

463.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, employees should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, employees shall not retain personal copies of recordings. Employees 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 employee's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a Supervisor, by any employee 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 with permission of the Chief Probation Officer or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

Yolo County Probation Department

Policy Manual

Portable Audio/Video Recorders

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 court order. .