

## Portable Audio/Video Recording Gear

### 432.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of audio/video recording equipment apart from Body Worn Cameras and In-Car audio/video recording systems which have policies related to their use (see *Lexipol 410 In-Car Camera and 422 Body Worn Camera* policies).

### 432.2 POLICY

The Binghamton Police Department shall provide audio/video recording equipment for members to memorialize certain events necessitating Police action. The equipment referenced in this policy consists of devices(s) and accessories contained within a case provided to officers upon request.

### 432.3 COORDINATOR

The Chief of Police or an authorized designee should designate a coordinator responsible for establishing procedures for:

- (a) 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

### 432.4 MEMBER PRIVACY EXPECTATION

All recordings made by members using 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. Members shall not disseminate any recording in whole or in part to any person or organization without approval through authorized channels.

### 432.5 MEMBER RESPONSIBILITIES

Members shall not edit, erase, duplicate, copy, share or otherwise distribute in any manner recordings except where required as set forth in this policy. Members shall not allow any civilian to view any recording without the authorization of the Chief of Police or the authorized designee.

Generally audio/video recording should be authorized by the Shift or Unit Officer in Charge. Officers may record at their discretion should they become involved in an incident requiring immediate action in which prior authorization is not feasible. In such cases Headquarters shall be notified without unnecessary delay.

The inspection of all video recording equipment will be the responsibility of the Shift or Unit Officer in Charge.

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The audio/video recording equipment will not be removed from the case by the assigned Officer except for training or maintenance purposes or when being utilized for Police recording purposes.

Patrol Captains will be responsible for checking to see that an ample supply of recording media is kept on hand at all times.

#### **432.6 EQUIPMENT**

##### **432.6.1 STORAGE**

- A. The audio/video recorder, rechargeable battery and recording media will be kept in the case provided when not in use.
- B. The assigned Officer shall store the equipment in the passenger compartment of their Patrol Vehicle, which will be locked when the officer is out of the vehicle.
- C. The audio/video equipment assigned to the Patrol Division will be kept in the Relief Captain's Office when not assigned to Patrol members.

##### **432.6.2 MAINTENANCE**

- A. Captains or their designee will see that the battery is adequately charged per manufacturers specifications.
- B. If maintenance is necessary, the officer to whom the equipment is assigned shall notify the Shift or Unit Officer in Charge. Captains will document the request for repair or maintenance to the Office of the Chief of Police.

#### **432.7 DEPLOYMENT OF THE AUDIO/VIDEO RECORDING EQUIPMENT**

The audio/video recording equipment may be utilized in the following situations:

- (a) Civil disorders or gatherings where disorderly conduct or multiple arrests is evident (see *429 First Amendment Assemblies/Mass Arrests* policy and related procedure(s));
- (b) Multiple alarm fires and fires that appear suspicious, with special attention on the crowd that has gathered;
- (c) Serious auto accidents;
- (d) Major crime/incident scenes;
- (e) Train accidents;
- (f) River rescues;
- (g) Unusual events;
- (h) Any other event where circumstances dictate the need based on the officer's training and experience; and
- (i) As directed by a supervisor.

When an officer feels it necessary to deploy the recorder, they shall make the request via Headquarters.

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- (a) Upon approval, arrangements will be made to get the equipment to the scene as soon as possible, while the requesting officer continues to monitor the situation.
- (b) Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy.
- (c) Once recording has concluded, the assigned Officer shall remove, and return the storage media to Headquarters, where it will be handled in accordance with current Departmental evidentiary policies and procedures.
  - 1. Blank media will be placed into the recording unit.

#### **432.7.1 CESSATION OF RECORDING**

Once activated, the recorder should remain on continuously until the member reasonably believes that Police participation in the incident is complete unless directed otherwise. Recording may be stopped during significant periods of inactivity or at the direction of a supervisor. Breaks in recording shall be documented in the officer's incident report.

#### **432.7.2 CONSIDERATIONS**

Officers may discontinue recording when there is an immediate threat to the safety of the officer or another person and utilizing the device may place the officer or others at a tactical disadvantage.

Officers may temporarily stop or interrupt recording during on scene investigative briefings and/or tactical and strategy discussions.

#### **432.8 PROHIBITED USE OF PORTABLE AUDIO/VIDEO RECORDING GEAR**

Officers are prohibited from:

- (a) Using department-issued Portable Audio/Video Recording Gear, or any other type of recorders, to record other City of Binghamton or Binghamton Police Department members, either surreptitiously or overtly, when not engaged in an official enforcement-related activity, unless specifically authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.
- (b) Using department-issued Portable Audio/Video Recording Gear and recording media for personal use and are prohibited from making personal copies of recordings.
- (c) Using personally owned recording devices while on-duty.

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

#### **432.9 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

All recordings should be labeled with an associated incident/case number, and incident type.

Officers will promptly advise a supervisor when a recording contains:

- (a) Use of Force
- (b) Allegations of police misconduct by a citizen

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- (c) Potential training issues.

### **432.10 RETENTION OF RECORDINGS**

Recordings will be retained by the Department for a prescribed period of time based on the incident type. Recordings will be retained for the longest retention period that applies as illustrated in §422.12 of the *Body Worn Camera policy*.

#### 432.10.1 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. Release of recordings may be restricted per NYS Civil Rights Law Section 50-A. 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 (Public Officers Law § 89).

### **432.11 REVIEW OF PORTABLE AUDIO/VIDEO RECORDING GEAR RECORDINGS**

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside of the Department is strictly prohibited, except to the extent permitted or required by law, or with authorization from the Chief of Police or his/her authorized designee.

Once Portable Audio/Video Recording Gear videos/recordings have been submitted into evidence, normal policy and procedure regarding the custody of evidence applies.

The following should be adhered to regarding Portable Audio/Video Recording Gear video prior to evidence submission:

- (a) Downloading or recording of any Portable Audio/Video Recording Gear videos/recordings is prohibited.
- (b) If within guidelines specified in this policy, when preparing written reports, or preparing for court testimony, officers may review Portable Audio/Video Recording Gear videos/recordings as a resource. However, the Department prohibits the review of recordings prior to preparing a report regarding a serious use of force and reserves the right to restrict access to recordings in connection with any serious use of force incident or an internal investigation (refer to *Body Worn Camera policy* §422.11.e, and §432.11.c of this policy).
- (c) Members are not authorized to review at any time any Level 3 Use of force, Deadly Physical Force, other serious critical incident, and certain Level 2 Use of Forces (impact weapon use, Taser use, BolaWrap), unless authorized by the Chief of Police, or Assistant Chiefs, or Administrative Captain of Internal Affairs.
- (d) Portable Audio/Video Recording Gear videos/recordings are not to serve as replacement for a detailed report.
- (e) Supervisors are authorized to review relevant Portable Audio/Video Recording Gear videos/recordings when investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing a member's performance.

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- (f) The showing of any Portable Audio/Video Recording Gear videos/recordings to academy recruits, auxiliary officers, volunteers, interns, or students, or any other non-sworn members (excluding crime analysts and members of I.T. when authorized) as a training tool is prohibited, without approval from the Chief of Police.
- (g) The Chief of Police, Assistant Chiefs, or Administrative Captain of Internal Affairs is authorized to direct a Portable Audio/Video Recording Gear videos/recordings to be preserved and restrict access.
  - 1. Once a Portable Audio/Video Recording Gear videos/recordings is locked out for restricted access, no department member except Police Administration only (Chief of Police, Assistant Chiefs, and Captain of Internal Affairs) is authorized to view the restricted video.
- (h) Recorded files may also be reviewed in any of the following situations:
  - 1. Upon approval by a supervisor, by any member of the Department who is participating in an official personnel investigation, such as a personnel complaint, administrative investigation or criminal investigation.
  - 2. Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
  - 3. Recordings that are of value as training tools.
    - (a) If an Officer objects to showing a Portable Audio/Video Recording Gear videos/recordings for training purposes, his/her objection should be submitted to the command staff before showing the video to determine if the training value outweighs the officer's objection.
  - 4. Recordings that may be beneficial in reviewing an Officer's performance.
  - 5. By Investigators in furtherance of a criminal investigation.
  - 6. By Crime Analysts in furtherance of intelligence gathering.
  - 7. When authorized by the Chief of Police or authorized designee.
  - 8. By members of the District Attorney's Office through the proper evidence process.
  - 9. Official statements when authorized by the Department.