Wentzville Police Department

Policy Manual

327

**422 Portable Audio/Video Recorders**

**Effective Date: 5/6/2015**

**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 lawful surreptitious audio/video recordings or the interception of

communications for authorized investigative purposes (see the Investigation and Prosecution

policy located in chapter 6).

422.1.1 TASER AXON FLEX PORTABLE RECORDER

This policy is for the use of TASER Axon Flex portable recorder.

**422.2 POLICY**

The Wentzville Police Department may provide members with access to portable recorders and

the TASER Axon Flex, 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 acting in their official capacity shall remain the property of

the Department regardless of whether those recordings were made with Department-issued or

personally owned recorders. 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, each uniformed 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 malfunctions at any time, the

member shall promptly report the failure to his/her supervisor and obtain a functioning device as

soon as practicable. Uniformed members should wear the recorder in a conspicuous manner or

otherwise notify persons that they are being recorded, whenever possible.

Any member assigned to a non-uniformed position may carry an approved portable recorder 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

recorder in a conspicuous manner when in use or otherwise notify persons that they are being

recorded, whenever possible.

When using a portable recorder, the assigned member shall record his/her name,

WPD 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.

Wentzville Police Department

Policy Manual

328

Members 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 member

deactivated the recording. Members 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 portable recorder

should be used, although there are many situations where its use is appropriate. Members

should activate the recorder any time the member believes it would be appropriate or valuable

to record an incident.

The portable recorder should be activated in any of the following situations:

(a) All enforcement and investigative contacts including stops and field interview (FI) 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 a member would normally notify Dispatch.

(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 practicable.

422.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Missouri law permits an individual to surreptitiously record any conversation in which one party

to the conversation has given his/her permission (§ 542.402, RSMo).

Members of the Department 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.

422.5.2 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member’s 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.

Wentzville Police Department

Policy Manual

329

422.5.3 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.

**422.6 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 onduty

or while acting in their 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

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 Watch Commander. 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.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or

ridicule.

**422.7 RETENTION OF RECORDINGS**

Any time a member records any portion of a contact that the member reasonably believes

constitutes evidence in a criminal case, the member shall record the related case number and

transfer the file in accordance with current procedure for storing digital files and document the

existence of the recording in the related case report. Transfers should occur at the end of the

member’s shift, or any time the storage capacity is nearing its limit.

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.

422.7.1 RETENTION REQUIREMENTS

Portable recordings are public records (§ 109.210(5), RSMo). All recordings shall 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.

**422.8 REVIEW OF RECORDINGS**

When preparing written reports, members should review their recordings as a resource.

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:

Wentzville Police Department

Policy Manual

330

(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 Retention, Release and Security" policy located in Chapter 8.

All recordings should be reviewed by the Custodian of Records prior to public release (see

the "Records Retention, Release and Security" policy located in Chapter 8). 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.

**422.9 RELEASE OF RECORDINGS**

Recordings made using portable recording devices pursuant to this policy are Department

records and may only be released as provided in the "Records Retention, Release and

Security" policy located in Chapter 8 or for other authorized legitimate Department business

purposes.