

Portable Audio/Video Recorders

425.1 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 (50 ILCS 706/10-20). 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 mobile audio/video recordings, interviews or interrogations conducted at any Harvey Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

425.1.1 DEFINITIONS

Definitions related to this policy include (50 ILCS 706/10-10):

Body-worn camera or camera - An electronic camera system for creating, generating, sending, receiving, storing, displaying and processing audiovisual recordings that may be worn about the person of a law enforcement officer.

Law enforcement-related activities - Activities in which the member is enforcing the law, including traffic or pedestrian stops, arrests, searches, interrogations, investigations, pursuits, crowd and traffic control. It does not include tasks unrelated to the investigation of a crime such as participating in town halls or other community outreach; helping a child find his/her parents; providing death notifications; performing in-home or hospital well-being checks on the sick, elderly or persons presumed missing; or completing paperwork while alone or only in the presence of another law enforcement officer.

Portable recorder or recorder - Either an audio-only recording device or a body-worn camera.

425.2 POLICY

The Harvey Police Department may provide members 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 members of the Department and the public.

425.3 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. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

425.4 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

Portable Audio/Video Recorders

good working order. If the recorder 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 (50 ILCS 706/10-20). Uniformed members shall wear the recorder 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 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 shall 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 member shall record his/her name, HPD 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 shall 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 shall include the reason for deactivation.

425.5 ACTIVATION OF THE AUDIO/VIDEO RECORDER

This policy is not intended to describe every possible situation in which the portable recorder shall be used, although there are many situations where its use is appropriate. Members shall activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

Members wearing body-worn cameras and any clothing or any indication they are law enforcement shall have the body-worn camera turned on at all times while they are on-duty and are responding to calls for service or engaged in law enforcement-related activities (50 ILCS 706/10-20).

Other portable recorders shall be activated in any of the following situations:

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

If exigent circumstances prevent an officer from turning on a body-worn camera when required, the camera shall be turned on as soon as practicable (50 ILCS 706/10-20).

Harvey Police Department

Policy Manual

Portable Audio/Video Recorders

Members shall not record interactions with confidential informants unless exigent circumstances exist or the informant has or is committing a crime (50 ILCS 706/10-20).

Members shall remain sensitive to the dignity of all individuals being recorded and unless recording with a body-worn camera is required, 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 shall resume when privacy is no longer an 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 shall be activated in situations described above as soon as reasonably practicable.

425.5.1 CESSATION OF RECORDING

Once activated, the portable recorder shall remain on continuously until the member reasonably believes 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.

Body-worn cameras shall be turned off when a victim, witness or community member reporting a crime requests that the camera be turned off. The request shall be captured on the recording. However, an officer may continue to record or resume recording a victim or witness if exigent circumstances exist or the officer has a reasonable articulable suspicion that the victim or witness has committed or is in the process of committing a crime. Under these circumstances, the officer shall indicate on the recording the reason for continuing to record despite the request of the victim or witness (50 ILCS 706/10-20).

Officers are permitted to turn off body-worn cameras while inside a patrol car equipped with Mobile Audio/Video (MAV). Cameras may also be turned off when the officer is not engaged in law enforcement-related activities or when completing paperwork alone or while only in the presence of another member (50 ILCS 706/10-20).

425.5.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Illinois law prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation is private or confidential (720 ILCS 5/14-2).

However, officers using body-worn cameras are not prohibited from recording a private conversation if the person is provided notice of the recording and proof of that notice is captured on the recording. If exigent circumstances exist that prevent the officer from providing notice, notice must be provided as soon as practicable (50 ILCS 706/10-20).

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

Portable Audio/Video Recorders

425.5.3 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.

425.6 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 on-duty 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, and shall 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, intimidation or ridicule.

425.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS

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

A member shall 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 officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Freedom of Information Act or the Law Enforcement Officer-Worn Body Camera Act (5 ILCS 140/7.5; 50 ILCS 706/10-20).

Portable Audio/Video Recorders

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member shall promptly notify a supervisor of the existence of the recording.

425.8 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members shall review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members shall 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.

All recordings shall 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 shall not be publicly released unless disclosure is required by law or order of the court.

425.8.1 DOCUMENTING REVIEW OF RECORDINGS

Members who review recordings prior to completing incident reports or other documentation shall disclose that fact in the report or other documentation (50 ILCS 706/10-20).

425.9 BODY-WORN CAMERA COORDINATOR

The Chief of Police or the authorized designee shall designate a coordinator responsible for (50 ILCS 706/10-20):

- (a) Identifying members who are assigned body-worn cameras.
- (b) Identifying members permitted to access recordings in order to redact, label or duplicate recordings.
- (c) Ensuring body-worn cameras acquired on or after July 1, 2015, are equipped with pre-event recording of least the 30 seconds prior to camera activation and are capable of recording for a period of at least 10 hours.

Portable Audio/Video Recorders

- (d) Establishing procedures for:
 - 1. The care and maintenance of body-worn cameras, including reasonable efforts to be made by supervisors to correct or repair body-worn camera equipment upon notice from a member experiencing technical difficulties, failures or problems with the equipment.
 - 2. Compliance with the Law Enforcement Officer-Worn Body Camera Act and guidelines established by the Illinois Law Enforcement Training and Standards Board (ILETSB) for the use of body-worn cameras.
 - 3. Security of recordings including access controls.
 - 4. Redacting, labeling and duplicating recordings.
 - 5. Supervisor and member review of recordings.
- (e) Providing an annual report to the ILETSB pursuant to 50 ILCS 706/10-25.
- (f) Ensuring the Department uses authorized body-worn camera recording media (50 ILCS 706/10-10).

425.10 RETENTION OF RECORDINGS

All recordings other than those made with body-worn cameras 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 90 days unless the recordings are made a part of an arrest or the recordings are deemed evidence in any criminal, civil, or administrative proceeding and then the recordings must only be destroyed upon a final disposition and an order from the court (720 ILCS 5/14-3(h-15)).

425.10.1 RETENTION REQUIREMENTS FOR BODY-WORN CAMERA RECORDINGS

Recordings made on body-worn cameras shall be retained for 90 days. Recordings shall not be altered, erased or destroyed prior to the expiration of the 90-day storage period (50 ILCS 706/10-20).

After the 90-day storage period, recordings must be destroyed unless any of the following occur (50 ILCS 706/10-20):

- (a) A formal or informal complaint has been filed
- (b) The officer discharged his/her firearm or used force during the encounter
- (c) Death or great bodily harm occurred to any person in the recording
- (d) The encounter resulted in a detention or arrest other than a traffic stop resulting in only a minor traffic offense or a petty offense with a fine of more than \$1,000
- (e) The officer is the subject of an internal investigation or otherwise being investigated for possible misconduct
- (f) The supervisor of the officer, prosecutor, defendant or court determines that the encounter has evidentiary value in a criminal prosecution

Harvey Police Department

Policy Manual

Portable Audio/Video Recorders

- (g) The recording officer requests that the video be retained for official purposes related to his/her official duties

Under these circumstances, the recording of the encounter shall not be altered or destroyed for two years. If the recording is used in a criminal, civil or administrative proceeding, the recording shall not be destroyed except upon a final disposition and order from the court.

Recordings may be retained anytime a supervisor designates the recording for training purposes and may be viewed by officers, in the presence of a supervisor or training instructor, for the purposes of instruction, training or ensuring compliance with department policies.

425.10.2 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.