


Portable Audio/Video Recorders

424.1 POLICY HEADER

<i>Original Effective Date:</i>	<i>Revised Date:</i>	<i>Review Date:</i>
September 1, 2021	October 13, 2022	September 1, 2023
Authorization:  Jason Haberman A/Chief of Police		

424.2 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 (42 Pa.C.S. § 67A07).

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Mt. Lebanon Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

424.3 POLICY

The Mt. Lebanon Police Department shall 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.

424.4 COORDINATOR

The Chief of Police or the authorized designee should designate a program manager responsible for (42 Pa.C.S. § 67A07):

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
 1. Storage should comply with Pennsylvania State Police standards (18 Pa.C.S. § 5706).
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.

Mt. Lebanon Police Department

Policy Manual

Portable Audio/Video Recorders

- (d) Establishing procedures for transferring, downloading, tagging or marking events.
- (e) Establishing procedures for the use of facial recognition software or programs (42 Pa.C.S. § 67A07).
- (f) Approving recording devices for use by members based on Pennsylvania State Police standards (18 Pa.C.S. § 5706).
- (g) The oversight of the equipment and systems associated with the Body Worn Camera program.

424.5 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.

424.6 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 the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her Watch Commander and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner.

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 reasonably practicable.

When using a recorder, not assigned to the member, the assigned member shall record his/her name, MLPD 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 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.

424.7 ACTIVATION OF THE AUDIO/VIDEO RECORDER

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

Mt. Lebanon Police Department

Policy Manual

Portable Audio/Video Recorders

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

- (a) All dispatched or self-initiated calls for service that involve enforcement and investigative contacts including stops, field interview and mental health 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) Searches of a person or property
- (e) All transports of prisoners and citizens (unless in-car video is activated)
- (f) 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.

Any delay or failure to activate their recorder as required by this policy, as well as any interruption of a recording required by this policy, shall be documented in the narrative section of any related report and shall be reported to the Watch Commander.

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 reasonably practicable.

424.7.1 CESSATION OF RECORDING

Once activated, the portable recorder should 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.

[For additional procedure on MUTING a BWC recording click here.](#)

424.7.2 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

Pennsylvania 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. However, Pennsylvania law expressly exempts law enforcement from this prohibition during the course of a criminal investigation where certain requirements are met (18 Pa.C.S. § 5704). Nothing in this section is intended to interfere with an officer's right to openly record any interrogation.

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

Mt. Lebanon Police Department

Policy Manual

Portable Audio/Video Recorders

424.7.3 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.

424.8 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 an 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 should 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, harassment or ridicule.

424.8.1 USE OF PORTABLE RECORDERS IN COURTROOMS

An officer should not activate a portable audio/video recorder in a courtroom during judicial proceedings except when the officer reasonably believes there is an actual or imminent emergency warranting activation while on-duty or while acting in an official capacity (201 Pa. Code Rule 1910).

Officers who activate a recorder in a courtroom shall notify the presiding judge as soon as practicable and within one business day provide a written report to the presiding judge and a supervisor. The report should include (201 Pa. Code Rule 1910):

- (a) The circumstances surrounding the activation.
- (b) The times of activation and deactivation.
- (c) An explanation of the officer's actions.

Any use or dissemination of the recording is prohibited without the written approval of the president judge of the court.

424.9 IDENTIFICATION AND PRESERVATION OF RECORDINGS

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

A member should transfer, tag or mark recordings when the member reasonably believes:

Mt. Lebanon Police Department

Policy Manual

Portable Audio/Video Recorders

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) Disclosure may be an unreasonable violation of someone's privacy.
- (c) Medical or mental health information is contained.
- (d) Disclosure may compromise an undercover officer or confidential informant.

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 Watch Commander of the existence of the recording.

424.10 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 100 days.

Videos properly requested within 60 days retention will be extended for one year from the date of recording (18 Pa.C.S. § 67A03).

The Program Manager, or the authorized designee, shall be responsible for the retention, duplication and purging of BWC recordings. The Program Manager, or the authorized designee, shall ensure recordings of incidents are maintained in accordance with this policy and department evidence retention procedures.

[For additional procedure on DUPLICATION/RETENTION OF BWC RECORDINGS click here.](#)

424.10.1 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.

424.11 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should 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 should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors shall review the following recordings:

- (a) Recordings of any officer injury.
- (b) Recordings of any injury to any subject.
- (c) Recordings of any use of force incident.
- (d) Recordings of any vehicle pursuit and actions taken following the pursuit.
- (e) Recording of any citizen complaint.
- (f) In accordance with the Bias-Based Policing Policy

Mt. Lebanon Police Department

Policy Manual

Portable Audio/Video Recorders

Supervisors may review audio/video related to a specific incident or call for service in response to an allegation of a rule or policy violation.

In situations where there is a need to review Portable Audio/Video recordings not covered by this policy, the Chief of Police or Deputy Chief of Police must approve the request. The United Police Society and the affected officer will be notified of the review. Each situation will be evaluated on a case by case basis. This review will be subject to counseling and training only.

Recorded files may also be reviewed:

- (a) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (b) By media personnel with permission of the Chief of Police or the authorized designee.
- (c) 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 Open-Records Officer prior to public release (see the Records Maintenance and Release Policy).

Supervisors may activate the Portable Audio/Video Recorders remotely to monitor a developing situation, such as a chase, riot or an event that may threaten public safety, officer safety or both, when the purpose is to obtain tactical information to assist in managing the event. Supervisors shall not remotely activate the Portable Audio/Video Recorders for the purpose of monitoring the conversations or actions of an officer.

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.

[For additional procedure on SUPERVISORY RESPONSIBILITIES click here.](#)

424.12 GRANT FUNDING

In order to ensure eligibility for grant funding for body-worn cameras from the Pennsylvania Commission on Crime and Delinquency, the Chief of Police or the authorized designee, will be responsible for (42 Pa. C.S. § 67A07):

- (a) Confirming that this policy and any other agency protocol or guidelines on the use of body-worn cameras comply with recommendations made by the commission, as applicable.
- (b) Confirming that a copy of this policy and any other related protocol or guidelines are made available to the public on the department website and upon request as required by 42 Pa.C.S. § 67A07.

Mt. Lebanon Police Department

Policy Manual

Portable Audio/Video Recorders

424.13 TRAINING

Members who use audio or video recording devices shall receive initial training and then periodic refresher training on the operation of audio/video recording devices as well as this policy (42 Pa.C.S. § 67A07; 201 Pa. Code Rule 1910).