

The Idaho Department of Fish and Game considers the following document to be an agency guidance document for purposes of Idaho Executive Order 2020-002. The guidance document is not new law; it is the Department's interpretation or implementation of existing law.

Department Point of Contact (to obtain additional information or provide input):

Deputy Director, Programs and Policy
Idaho Department of Fish and Game
P.O. Box 25
Boise, ID 83707
Phone: (208) 334-3771
Email: rules@idfg.idaho.gov



IDAHO DEPARTMENT OF FISH AND GAME

Use of Portable Audio/Video Recording Devices POLICY NO.: E-9.0

Adoption Date: August 31, 2016

POLICY STATEMENT

Department employees may use recording devices during the conduct of law enforcement contacts to protect the public and employees.

A. Purpose

This policy provides direction for the use of portable audio/video recording devices by employees of the Department while in the performance of their duties.

The Department may provide employees with portable recorders, either audio/video or both, for use during the performance of their duties. Use of personal cell phones, go-pros, or other audio or video equipment and any subsequent recordings while on Department time will also be subject to this policy. Recordings may be important in protecting the rights of the public and employees, and support law enforcement by capturing contacts between employees of the Department and the public. Any recording created during a law enforcement contact, or with a law enforcement nexus, falls under the purview of this policy.

B. Policy Definitions

1. Portable audio recording device-any device that captures and records voices or sounds only, not images, and capable of being worn or carried on a person.
2. Portable video recording device-any device that captures and records images and is designed to be worn or carried on a person, such as a body worn video camera.
3. Recorded media-any audio or video recordings in any format (cassette or digital).
4. Intentionally recorded-any recording created when an employee purposefully intends to activate a recording device.

C. Legal Authority

Idaho Code Section 18-6702 INTERCEPTION AND DISCLOSURE OF WIRE, ELECTRONIC OR ORAL COMMUNICATIONS PROHIBITED.

(2) (c) It is lawful under this chapter for a law enforcement officer or a person acting under the direction of a law enforcement officer to intercept a wire, electronic or oral communication when such person is a party to the communication or one (1) of the parties to the communication has given prior consent to such interception.



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(2) (d) It is lawful under this chapter for a person to intercept a wire, electronic or oral communication when one (1) of the parties to the communication has given prior consent to such interception.

D. Use of Audio/Video Recording Devices

Conservation enforcement employees shall be trained in the use of portable recorders, audio/video or both, during the Field Training and Evaluation Program (FTEP). Employees should, to the best of their ability ensure their recorders are carried in a working condition while on duty including: maintenance, recharging or battery replacement and downloading of recorded material.

Department employees are encouraged to activate a recording device audio/video or both prior to or during enforcement contacts when deemed necessary. Exceptions may include officers working covertly where the carry of a recording device is not practical or could jeopardize an investigation or an employee's safety.

At no time is an employee expected to jeopardize his/her safety in order to activate a recorder or change the recording media.

Once started, recordings should continue without interruption until the contact ends, if feasible. Recordings may be paused or stopped and re started, during periods of separation from the public.

Intentionally recorded media involving contacts with the public shall not be erased or deleted unless such deletion fits within the Idaho Department of Fish and Game Audio/Video Retention Schedule (page 5). Recordings that may have occurred accidentally may be deleted by the employee. An example would be an unintended activation of the record button that did not involve a contact with the public. Recordings that are created while testing a device or during training when only employees are present may also be deleted.

E. Access to Recorded Media

Employees are responsible for saving their recorded media on a Department computer, drive, or server and shall have review access to the recorded media. An employee can review media as he/she prepares reports, prepares for court and for self-critique. Supervisors may review media of their respective subordinates.

Requests for preservation, retention and duplication of video/audio recordings for use in public or news/social media releases may be approved by a Regional Conservation Officer or higher. These recordings may be retained until destruction is requested by the approver (or his/her superior) or kept indefinitely.



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Employees shall not allow any public citizens to review recordings unless used to further an investigation or with supervisor approval. Employees can advise public citizens on how to obtain a copy through a public records request.

F. Storage of Recordings

Employees creating recorded media shall be responsible for saving the media in an appropriate format and the evidentiary chain of custody of any recorded media for court purposes. Recorded media should be saved to a Department computer, drive (internal or external) or servers.

Once an employee transfers recorded media to a Department server for storage the employee is expected to delete all other copies of the media in his/her possession, including cell phones.

Recorded media remains property of the Department even though it may be in the possession of an individual employee. Copies of the media may be made as needed during an investigation or as prescribed in this policy, but the alteration of recorded media which changes the content of what was recorded is prohibited

G. Retention of Recordings

Recorded Media Management is the systematic control of information from the time of creation until its ultimate disposition. Access to the information is maintained until the information meets administrative, fiscal, and legal reasons for keeping it; and there are no business or historical needs for the records.

1. Pursuant to Law Enforcement Records Retention Schedule of the Records Management Guide:
 - a. Establishes records-keeping procedures for recorded media and retention schedules.
 - b. Provides for a consistent schedule for the destruction of recorded media.
 - c. Ensures that the information needs of the agency are met.
 - d. Identifies and preserves historical records.
2. The Idaho Department of Fish and Game Audio/Video Retention Schedule lists those records unique to the Department. Items not listed on this schedule follow the Law Enforcement Record Retention Schedule of the Records Management Guide.



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3. Case files are not considered closed until after the time a court order is entered and the time to appeal has expired.
4. Internal requests for preservation, retention and duplication of video/audio recordings for use in training or education may be approved by a supervisor. These recordings may be retained until destruction is requested by the approver (or his/her superior) or kept indefinitely.
5. Any request for preservation or duplication of video/audio recordings purged in accordance with this policy cannot be processed.

H. Authorization to Release Recorded Media

The recorded media and recorded images captured during the scope of an employee's duties are the property of the Idaho Department of Fish and Game. Department employees are authorized to disseminate media to prosecutors, or cooperating law enforcement agencies when needed in the course of their duties. Further dissemination is prohibited unless specifically authorized by the Enforcement Bureau Chief or his designee. The Department's Attorney General shall review any recordings before dissemination due to a public records request and determine what media should be released and/or redacted.



Audio/Video Retention Schedule

