

## Portable Audio/Video Recorders

### 426.1 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 audio/video recordings of interviews or interrogations conducted at any San Leandro Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

### 426.2 DEFINITIONS

**PERSONNEL** - Any uniformed (Class "B" and "C", which includes the bicycle uniform) personnel employed with the San Leandro Police Department.

**ROUTINE** - During the course of one's duties.

**PVRS DEVICE** - The Portable Video Recording System is an on-body video camera

### 426.3 POLICY

All personnel shall utilize their assigned PVRS in accordance with this policy. Unauthorized use, duplication, and/or distribution of PVRS files are prohibited. Personnel shall not make copies of any PVRS files for their personal use and are prohibited from using a recording device such as a personal camera or any secondary video camera to record PVRS files. All recording media, images and audio are property of the San Leandro Police Department and shall not be copied, released, or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Police.

Members shall not record non-business related activity. The use of the PVRS is prohibited in a restroom unless there is a business-related purpose.

Only trained personnel shall operate PVRS equipment.

All personnel who are assigned a PVRS shall wear the device during any regular shift, any overtime shift and when the Chief of Police or their designee deem it appropriate to wear. Personnel will use only the PVRS issued by the Department. The wearing of any other personal video recorder is not authorized.

Personnel shall not remove, dismantle or tamper with any hardware and/or software component or part of the PVRS.

There are many situations where the use of the PVRS is appropriate. This policy is not intended to describe every possible circumstance where the use, or nonuse, of the PVRS is appropriate.. Personnel may activate the system anytime they feel its use would be appropriate and/or valuable

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to document an incident. Unless it is unsafe or impractical to do so, personnel shall make a reasonable effort to activate their PVRs cameras prior to making contact in any of the following incidents:

- (a) Enforcement encounters where there is a reasonable suspicion the person is involved in criminal activity. This include, but is not limited to, dispatched calls as well as self-initiated activities.
- (b) Probation or parole search.
- (c) Service of search or arrest warrant.
- (d) K-9 deployments, (e.g., cover officers, perimeter officers, etc.)
- (e) Any contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Personnel may activate the PVRs before or during any other incident at their discretion. During the activation, the recording should not be intentionally terminated until the conclusion of the encounter.

Personnel shall not activate the PVRs recording functions in any of the following incidents:

- (a) To record any personal conversation of/or between another department member and employee.
- (b) Personnel taking a report or conducting a preliminary investigation who reasonably believe no criteria for activation is present.
- (c) Personnel meeting with any confidential informants.

Sworn personnel are not required to obtain consent from a private person when:

- (a) In a public place.
- (b) In a location where there is no reasonable expectation of privacy (e.g., inside a building or dwelling where personnel are lawfully present and engaged in the performance of official duties).

Sworn personnel are encouraged to advise private persons they are recording if the advisement may gain compliance, assist in the investigation, and does not interfere with the investigation or officer safety.

SWAT personnel who are issued a PVRs and are engaged in an active SWAT entry, shall defer to the SWAT supervisor or incident commander for direction on the activation of the PVRs.

CID personnel who are issued a PVRs and who are preparing to engage in a probation or parole arrest or search warrant entry shall wear the PVRs on their outer vest carrier. They shall make a reasonable effort to activate their PVRs cameras prior to making such entry and should continue recording until the situation becomes static. CID Personnel shall also make a reasonable effort to activate their PVRs when they deem it necessary during the course of any investigation.

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### **426.4 RESPONSIBILITIES**

The System Administrator is designated by the Chief of Police and has oversight responsibilities to include, but not limited to, the following:

- (a) Operation and user administration of the system
- (b) System evaluation
- (c) Training
- (d) Policy and procedure review and evaluation
- (e) Coordination with IT regarding system related issues.
- (f) Ensure PVRs files of evidentiary value are secured and maintained conditional upon adjudication of the case. Ensure all other routine files (routine files are any files that are not assigned a report number) are secured and maintained for one year.
- (g) Ensure PVRs files are reviewed and released in accordance with federal, state and local statutes and the City of San Leandro/San Leandro Police Department retention policy.

Supervisors and managers will ensure personnel utilize the PVRs according to policy guidelines and may conduct periodic audits of recordings to:

- (a) Ensure adherence to policy
- (b) Assess performance

Any audits will be conducted in a fair and impartial manner.

PVRs recordings may also be utilized for training purposes.

Personnel utilizing the PVRs are responsible for the following:

- (a) Ensuring the battery is fully charged and operating properly.
- (b) Immediately report unresolved equipment malfunctions/problems to their supervisors.
- (c) Documenting the use of the PVRs on one of the following:
  - 1. On the police report/CAD
  - 2. As a notation on a citation
  - 3. On a field contact card
- (d) Once the video is captured, officers should identify the PVRs files by:
  - 1. Noting the San Leandro Police Department case number in the Case ID Field, when assigned.
  - 2. Identifying the file title with sufficient information such as, crime code, suspect name, location, event, etc.

Officers will have the ability to audit any of their videos at their discretion. Officers may contact the System Administrator if they feel videos were viewed against policy.

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The POA President or his/her designee may review the audit log with reasonable notice through the Office of the Chief of Police to ensure the audits are conducted fairly. At no time will the audit log be duplicated or distributed.

### **426.5 OPERATION**

Anytime that an officer records any portion of a contact which the officer reasonably believes constitutes evidence in a criminal case; the officer shall record the related case number and book the recording media into evidence or download the file in accordance with current procedure for storing digital files.

- (a) The officer shall further note in any related report that the recording has been placed into evidence.
- (b) Recorded media placed into evidence shall be retained through the final disposition of their related criminal case.

#### **426.5.1 NON-CRIMINAL MATTER**

Anytime an officer reasonably believes that a recorded contact may be of benefit in a non-criminal matter (e.g., a hostile contact), the officer may book the recording media into safekeeping or download the file in accordance with current procedure for storing digital files.

Under such circumstances, the officer shall notify a supervisor of the existence of the recording as soon as practical. Any Recording media which has been placed into safekeeping shall be retained according to the published Records Retention Schedule or until the related matter has been closed (e.g. internal investigation, civil litigation).

### **426.6 REVIEW OF RECORDED MEDIA FILES**

Although the data captured by the PVRS is not considered Criminal Offender Record Information (CORI), it shall be treated in the same manner as CORI data. All access to the system is logged and subject to audit at any time. Access to the data from the system is permitted on a right to know, need to know basis. Employees authorized under this policy may review a video according to the provisions of this policy.

Once uploaded to the server, personnel may review their own audio/video data at a department desktop computer and documenting the reason for access in the "Notes" section prior to viewing any data. Access is automatically time/date stamped and records each access by name.

An employee may review PVRS files as it relates to their involvement in:

- (a) An incident for the purpose of completing a criminal investigation and preparing official reports.
- (b) Prior to courtroom testimony or for courtroom presentations.
- (c) In the event of a critical incident.

All PVRS recordings shall be uploaded to the server as soon as practical.

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During a critical incident, the initial interview of an involved officer should occur before the officer has reviewed any audio/video recordings of the incident. An involved officer will have the opportunity to review recordings after the initial statement has been taken. Should the investigators decide not to allow the officer(s) to view the recordings prior to the initial interview; the involved officer(s) attorney(s) may have the opportunity to review the recordings prior to the initial interview. Investigators should be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by the involved officer(s). If the investigator shows any audio/video recordings to an involved officer after the initial interview, the investigator has the discretion to admonish an involved officer about the limitations of audio/video recordings.

The following is an example of an appropriate admonishment in a case involving video evidence:

"In this case, there is video evidence that you will have an opportunity to view after you have given your initial statement. Video has a limited field of view and may not capture events normally seen by the human eye. The frame rate of video may limit the camera's ability to capture movements normally seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident."

Investigators may ask an involved officer to view the incident scene during a "walkthrough." The Investigator will determine the timing of the "walkthrough", however, it should not occur prior to the initial statement of an involved officer. Only one involved officer at a time will be permitted to do a "walkthrough" of a scene.

PVRS recordings may be reviewed for training purposes.

Personnel may view all video that they are recorded in, either visually or audibly. Additionally, personnel may view other personnel's video, when they were not seen or heard in the video if they have a similar perspective or were in close proximity of the functioning PVRS's.

Personnel with investigatory responsibilities may review PVRS files under the provision of this policy for the purpose of conducting official departmental business.

### **426.7 PVRS FILE REQUESTS**

Departmental requests, to include requests from the District Attorney's Office or City Attorney's Office, shall be in writing and contain sufficient information to assist in locating the PVRS file. Such requests shall be forwarded, via email, to the system administrator.

Non-Departmental requests:

- (a) All non-departmental requests for a PVRS file shall be accepted and processed in accordance with federal, state and local statutes and departmental policy (court cases, subpoenas, public records act, etc.) as set forth in the Records Maintenance and Release Policy.
- (b) Media inquiries and/or requests shall be received and processed in accordance with current policy.

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- (c) When practical, personnel will be advised, prior to any release, of video under the CPRA (California Public Records Act) and the guidelines consistent with the Department's Operations Directive.

In the event of an accidental activation of the PVRs, the recording employee may request that the PVRs file be deleted. The recording employee shall submit an e-mail request, with sufficient information to locate the PVRs file, to the Bureau of Operations Captain. The Bureau of Operations Captain shall review the file and approve or deny the request. If the request is approved it shall be forward to the System Administrator for action.

Copying procedures require a PVRs file be requested in accordance with the provisions of the order by submitting a written request, to include the reason for the request, to the System Administrator.

When necessary, investigators conducting criminal or internal investigations shall advise the System Administrator to restrict access/public disclosure of the associated PVRs files.

A PVRs file may be utilized as a training tool for individuals, specific units, and the department as a whole. A person recommending utilization of a PVRs file for training purposes shall submit the recommendation through the chain of command to the Bureau of Operations Captain or designee. If an involved officer or employee objects to the showing of a recording, his/her objection will be submitted to staff to determine if the employee's objections outweigh the training value. The Bureau of Operations Captain or designee shall review the recommendation and determine how best to utilize the PVRs file considering:

- (a) The identity of the person(s) involved;
- (b) The sensitivity of the incident and;
- (c) The benefit of utilizing the file versus other means (e.g., General Order, Training Bulletin, Officer Safety Bulletin, briefing or other training).

### **426.8 REPAIR PROCEDURE**

Personnel should immediately report any problems with the PVRs to their immediate supervisor.

Upon notification, the supervisor shall contact the System Administrator or designee stating the problem or malfunction.