
Portable Audio/Video Recorders

450.1 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 mobile audio/video recordings, interviews or interrogations conducted at any Alhambra Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

Also see Policies 446 - Mobile Audio/Video, and 600 - Investigation and Prosecution.

450.2 POLICY

The Alhambra Police Department may provide members with access to portable audio and video recorders 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.

Absent legal cause or lawful order, no member of this department may surreptitiously record (using any recording device) any other member of this department without the prior expressed knowledge and consent of all parties.

450.3 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 for 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.

450.4 COORDINATOR

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.

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- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.

450.5 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, the camera positioning on the uniform is adjusted to facilitate optimum recording field of view, 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 supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should 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 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 portable recorder, the assigned member shall record his/her name, APD 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.

450.5.1 REPORT WRITING RESPONSIBILITIES

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.

450.5.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

450.6 ACTIVATION OF THE PORTABLE RECORDER

450.6.1 NOTIFICATIONS REGARDING PORTABLE RECORDER

For the purpose of this policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted portable recorder will have knowledge that such a contact is being recorded.

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If the officer does not have the portable recorder conspicuously displayed and is not engaged in a criminal investigation, the officer shall notify all involved individuals that they are being recorded.

450.6.2 TIMING OF ACTIVATION OF PORTABLE RECORDER

At no time is a member expected to jeopardize his/her safety in order to activate a recorder or change the recording media. However, the recorder should be activated in required situations as soon as practicable.

450.6.3 MANDATORY ACTIVATION OF PORTABLE RECORDER

In certain situations, the use of the portable recorder is mandatory. Unless use of the recording device is excused by Section 450.6.5 of this policy, the portable recorder shall 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 the Communications Center.
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

450.6.4 DISCRETIONARY ACTIVATION OF PORTABLE RECORDER

The 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. Unless otherwise prohibited by the policy, members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

450.6.5 WHEN ACTIVATION OF PORTABLE RECORDER IS EXCUSED

Members are excused from the mandatory recording requirements of Section 450.6.3 of this policy and are not required to activate their portable recorders when:

- (a) A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational.
- (b) In the member's judgment, a recording would interfere with his/her ability to conduct an investigation, or may be inappropriate because of the victim or witness's physical condition, emotional state, age, or other sensitive circumstance (e.g. a victim of rape, incest, or other form of sexual assault).
- (c) In situations where the recording would risk the safety of a confidential information, citizen informant, or undercover officer.
- (d) In patient-care areas of a hospital, rape treatment center or other healthcare facility, unless an enforcement action is taken in these areas.

450.6.6 PROHIBITED ACTIVATION OF PORTABLE RECORDER

Members shall not activate their recording devices in the following circumstances:

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- (a) When working as a school resource officer or while on the grounds of a school unless activation of the recording device is required by Section 450.6.3 of the policy.
- (b) When discussing administrative, tactical, or law enforcement sensitive information away from the public.
- (c) Because many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device, these devices shall not be used where an explosive device may be present.

450.6.7 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.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636). Members shall cease recording if any of the criteria set forth in Section 450.6.6 that prohibit the use of the recording device arise.

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.

450.6.8 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.

450.7 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Penal Code § 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential.

- (a) 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 relevant and beneficial to the investigation (Penal Code § 633).
 - 1. For the purpose of this policy, any officer contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other employees conducted solely for administrative purposes.

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2. For the purpose of this policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted portable recorder will have knowledge that such a contact is being recorded.
 3. If the officer does not have the recording device conspicuously displayed and is not engaged in a criminal investigation, the officer shall notify all involved individuals that they are being recorded.
- (b) Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or his/her authorized designee.

NOTE: Members of this Department, who opt to keep their recording devices on "Voice Activation," are not exempt from the strict limitations placed on surreptitiously recording fellow employees.

450.8 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 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 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, intimidation or ridicule.

450.9 IDENTIFICATION AND RETENTION OF RECORDINGS

450.9.1 MEMBER RESPONSIBILITIES

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 download the file in accordance with Policy 814- Computers and Digital Evidence, and document the existence of the recording and that it has been placed into evidence in the related case report. If a citation was issued or a Field Interview Card was completed, a notation shall be placed on the back of the Record's copy that the incident was recorded.

Any time a member reasonably believes a recorded contact contains Evidentiary Data, as defined by Section 450.9.3 of this policy, the member shall promptly notify a supervisor of the existence of the recording.

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Members should upload the file, in accordance with current procedure for storing digital files, at the end of their shift and any time the storage capacity is nearing its limit. Officers, who utilize a digital recorder, shall download the audio recording(s) or file(s) onto a department computer and copy same data onto a compact disc. The compact disc shall be marked as the "original" and then booked into the Property Bureau as evidence, or for safe keeping in non-criminal matters.

Computer data shall be erased after a CD has been created.

450.9.2 RETENTION REQUIREMENTS

Recordings obtained from the recording devices shall be classified as either Evidentiary Data or Non-Evidentiary Data.

450.9.3 EVIDENTIARY DATA

All recordings of Evidentiary Data shall be retained for a minimum of two years or until the conclusion of any criminal or civil matter for which the Evidentiary Data is relevant, whichever is the later period. A recording is Evidentiary Data under the following circumstances (Penal Code § 832.18):

- (a) The recording is of an incident involving the use of force by an officer or an officer-involved shooting.
- (b) The recording is of an incident that leads to the detention or arrest of an individual.
- (c) The recording is relevant to a formal or informal complaint against a law enforcement officer or a law enforcement agency.
- (d) The recording is of an adversarial contact with a member of the public or may be relevant to active or anticipated civil litigation.

450.9.4 NON-EVIDENTIARY DATA

Any recordings obtained from recording devices **that do not fall within the categories of Section 450.9.3** of the policy shall be deemed Non-Evidentiary Data. All Non-Evidentiary Data must be retained for a minimum of 60 days after which it may be erased, destroyed or recycled.

Non-Evidentiary recordings may include, but are not limited to the following:

- (a) Disclosure may be an unreasonable violation of someone's privacy.
- (b) Medical or mental health information is contained.
- (c) Disclosure may compromise an undercover officer or confidential informant.
- (d) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (e) A complainant, victim or witness has requested non-disclosure.

450.9.5 UNINTENDED RECORDING

In the event of an unintended activation of a portable recording device where the resulting recording is of Non-Evidentiary Data, the recording employee may request that the recording

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be administratively locked from viewing by submitting an email request to the portable recorder system administrator or his/her designee who shall administratively lock the recording as soon as practical. The Professional Standards Unit will review the recording, and approve or deny the request with the authorization of the Chief of Police. The Professional Standards Unit will then forward the decision to the system administrator and employee for appropriate action.

450.9.6 LOGS OF RECORDED DATA

Records or logs of access and deletion of recorded data from portable recording devices should be retained permanently.

450.10 RELEASE OF RECORDINGS

Recordings made using portable recording devices pursuant to this policy are department records and may only be released as provided in Policy 810 - Release of Records and Information, or for other authorized legitimate department business purposes. Nothing in this policy shall be interpreted to limit the public's right to access recorded data under the California Public Records Act.

450.11 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 should not use the fact that a recording was made as a reason to write a less detailed report. Members should ensure that their report takes into account consideration of the recording. Obvious discrepancies between what is shown in the video and the member's recollection should be documented in the report. Importantly, the member should document the incident from their initial and personal perspective. The member's knowledge of what they knew and when they knew it is paramount. In addition, the member's state of mind and reactions may or may not be evident in a video recording.

Members shall not retain personal copies of recordings.

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 his/her authorized designee.

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- (d) In compliance with a public records request, if permitted, and in accordance with the Policy - Records Maintenance and Release.

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

450.12 PORTABLE AUDIO/VIDEO RECORDER SYSTEM ADMINISTRATOR

The portable audio/video recorder system administrator is responsible for overall maintenance, management, training and retention, and acts as a liaison to the Information Technology Manager, the Property and Evidence Section and associated vendors. The portable audio/video recorder system administrator reports to the Support Services Assistant Chief or his/her designee.

450.13 TRAINING

All members, who are authorized to use the portable audio/video recording system, shall successfully complete a department approved course of instruction prior to its use.