

Use of Wearable Audio and Video Recorders

450.1 PURPOSE AND SCOPE

The East Bay Regional Park District Police Department has provided each of its sworn members with access to wearable audio and video recorders for use while on-duty. These recorders are intended to assist officers in the performance of their duties by providing an unbiased audio and/or video record of a contact.

450.1.1 ACCREDITATION STANDARDS

This Policy pertains to the following CALEA standards: NONE

450.2 UNIFORMED OFFICER RESPONSIBILITIES

Prior to going into service, each uniformed officer will be responsible for making sure that he/she is equipped with a departmentally issued wearable video recorder in good working order. Officers may also carry a wearable audio recorder. Uniformed officers shall wear the audio recorder in an approved holder conspicuously mounted on their utility belt, on their uniform shirt or in a pocket. Officers shall insure that the wearable video recorder is worn in such a way to provide an unobstructed camera view of the officer's citizen contacts.

Each officer shall be responsible for maintaining his/her own recordings until the media is either full or placed into evidence/safekeeping.

450.3 NON-UNIFORMED OFFICER RESPONSIBILITIES

Any officer assigned to non-uniformed positions (e.g. detectives, Administrative Services, etc.) may carry a departmentally issued digital audio or video recorder at any time the officer feels that such a device may be beneficial to the situation.

Each officer shall be responsible for maintaining his/her own recordings until the media is either full or placed into evidence/safekeeping.

450.4 ACTIVATION OF THE AUDIO OR VIDEO 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, however Penal Code § 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation.

- (a) No member of this department may surreptitiously record a conversation of any other member of this department without the expressed knowledge and consent of all parties. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code § 3303(g).
- (b) Any member of this department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation.
 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

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presumption shall not apply to contacts with other employees conducted solely for administrative purposes.

2. For the purpose of this policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted audio or video recorder will have knowledge that such a contact is being recorded.
- (c) Members of the Department are encouraged to activate their recorders at any time that the officer reasonably believes that a recording of an on-duty contact with a member of the public may be of future benefit.
1. At no time should an officer jeopardize his/her safety in order to activate a recorder or change the recording media.
 2. Officers are prohibited from utilizing department recorders and recording media for personal use.

450.5 RETENTION OF RECORDING MEDIA

At any time 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) Recording media placed into evidence shall be retained through the final disposition of the related criminal case.
- (c) Digital audio recordings shall be transferred to a CD-ROM and booked into evidence in accordance with policy manual § 804.
- (d) Digital video recordings shall be transferred to the Digital Evidence Server in accordance with policy manual § 804. Once transferred to the Digital Evidence Server the file shall be deleted from the employee's computer upon report approval by a supervisor.

450.5.1 NON-CRIMINAL MATTER

At any time that 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.

- (a) Under such circumstances, the officer shall notify a supervisor of the existence of the recording as soon as practicable.
- (b) Recording media which have been placed into safekeeping shall be retained for a period of no less than 365 days or until the related matter has been closed (e.g., internal investigation, civil litigation).
- (c) Video recorded media which has been downloaded will be retained for no less than 365 days or until the related matter has been closed.

Once any recording medium has been filled, the officer shall place it into safekeeping or download the file in accordance with current procedure for storing digital files where it shall be retained for a period of no less than 365 days unless utilized in a specific case.

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450.6 REVIEW OF RECORDED MEDIA FILES

Recorded files may be reviewed in any of the following situations:

- (a) By a supervisor investigating a specific act of officer conduct
- (b) Upon approval by a supervisor, any member of the Department who is participating in an official investigation such as a personnel complaint, administrative investigation or criminal investigation
- (c) By the department member who originally recorded the incident
- (d) Pursuant to lawful process or by court personnel otherwise authorized to review evidence in a related case
- (e) By media personnel with permission of the Chief of Police or authorized designee

450.7 REVISIONS

Effective: January 2004

Revised: March 2005; May 23, 2006; November 1, 2008 ; March 30, 2009; February 1, 2010; October 6, 2010; February 3, 2011