
Portable Audio/Video Recorders

433.1 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 Piedmont Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

433.2 POLICY

The Piedmont Police Department may 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.

433.3 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.

433.4 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 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 shall wear an approved portable recorder. 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. Exceptions to non-uniform members wearing an approved portable recorder may be authorized by the Operations Commander dependent on the nature of the assignment and operation.

When using a portable recorder, the assigned member shall record his/her name, PPD 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

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when the recording device and related software captures the user's unique identification and the date and time of each recording.

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.

Members shall not tamper with, or in any manner, alter the data stored on the recording device.

433.4.1 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 requiring hospitalization, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

Supervisor review:

Supervisors are authorized to review their own BWC video files, all video files of their subordinates and, as necessary to complete required duties, any associated video files of non-subordinate members, unless otherwise prohibited by policy.

In addition to other required video recording reviews, all supervisors shall conduct a random review of a least four BWC recordings, one of which shall be from a self-initiated call for service, for each of their subordinates on a monthly basis. The selected recordings shall be viewed in their entirety and shall have a minimum length of ten (10) minutes.

When a supervisor is approving or investigating a UOF or vehicle pursuit, they shall review the BWC recordings of all members who are a witness to or involved in the use of force.

Supervisor's review of subordinate BWC recordings shall include an assessment of:

- Officer performance and training needs
- Policy compliance
- Consistency between written reports and video files

When a member does not activate or de-activate their BWC as required, supervisors shall determine if the delayed or non-activation was reasonable, based on the circumstances.

433.5 ACTIVATION OF THE PORTABLE RECORDER

This 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. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

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

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- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) All calls for service
- (d) Any contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- (e) When responding Code 3

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 time a portable recorder is not activated when required to do so in accordance with this policy, the Department member shall notify their immediate supervisor and the reason shall be documented in the subsequent police report. If no police report is filed for the encounter, then the fact that the recorder was not activated, and the reason, shall be included in the CAD incident call history.

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 shall be activated in situations described above as soon as reasonably practicable.

433.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

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 lawful and beneficial to the investigation (Penal Code § 633).

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

433.5.2 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.

433.5.3 CESSATION OF RECORDING

Once activated, the portable recorder shall 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. Officers must use reasonable judgment in determining when to deactivate the recording device, such as when the purpose for the activation is no longer present. Keeping in mind that static situations may change rapidly, officers need to recognize it may be necessary

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to re-activate their recording device unexpectedly. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Any time a recording is terminated early, the reason shall be communicated to a supervisor and in the subsequent police report. If no police report is filed for the encounter, then the fact that the recording was terminated before the conclusion of the event and the reason shall be included in the CAD incident call history.

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).

433.6 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. All recorded media, images, and audio files are the property of the Piedmont Police Department and shall not be copied, released or disseminated in any form or manner without the expressed consent of the Chief of Police or their designee.

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.

433.6.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Penal Code § 832.19).

433.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS

All recordings made under this policy will be properly labeled and categorized and will normally be downloaded into the Evidence.com system prior to the end of shift. The minimum requirements for labeling in Evidence.com are ID (incident or case number), Category (which is selected from the provided list), Title (a brief description of the event), and Location (if not included automatically it must be added manually by the member).

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

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- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) 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 supervisor of the existence of the recording.

433.8 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.
- (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.

433.9 RETENTION OF RECORDINGS

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incidents involving use of force by an officer
- (b) Officer-involved shootings
- (c) Incidents that lead to the detention or arrest of an individual
- (d) Recordings relevant to a formal or informal complaint against an officer or the Piedmont Police Department

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Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

All other recordings should be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

433.9.1 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.