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	ACCOUNTING
	CARGO/INDUSTRIAL REAL ESTATE
	CARGO MARKETING
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	DEBT & TREASURY MANAGEMENT
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CITY OF LOS ANGELES  
HARBOR DEPARTMENT

OFFICE MEMORANDUM

November 16, 2018

To	From
	ENGINEERING
	ENVIRONMENTAL MANAGEMENT
	FINANCIAL MANAGEMENT
	GOODS MOVEMENT
	GRAPHICS
	HUMAN RESOURCES
	INFORMATION TECHNOLOGY
	LABOR REL & WORKFORCE DEV
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	MANAGEMENT AUDIT
	MEDIA RELATIONS
	PLANNING & STRATEGY
	PORT PILOTS
XX	PORT POLICE X
	RISK MANAGEMENT
	TRADE DEVELOPMENT
	WATERFRONT/COMM REAL ESTATE
	WHARFINGERS

### SPECIAL ORDER 18-08

**TO: All Port Police Personnel**

**SUBJECT: Modification to Policy 450 Portable Audio/Video Recorders**

Effective immediately, revised Policy 450 shall be implemented. Policy 450 has been revised in order to update direction regarding handling and retention of recordings.

In accordance with this policy, a member of the Port Police Division will be designated as the coordinator for the use and maintenance of portable recording devices and the storage of recordings.

All staff are directed to read and be familiar with the attached policy which will be incorporated into the Policy Manual at its next publication.



THOMAS E. GAZSI  
Chief of Police

TEG:GPC:ng

## 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 Los Angeles Port Police facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

### 450.2 POLICY

The Los Angeles Port Police 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.

### 450.3 COORDINATOR

A member of the Department shall be appointed 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.

### 450.4 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.

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### **450.5 MEMBER RESPONSIBILITIES**

When portable recorders are provided, each sworn uniformed member, other than administrative staff, shall 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 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, LAPP 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.

Members should 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 should include the reason for deactivation.

#### **450.5.1 SUPERVISOR RESPONSIBILITIES**

Supervisors should 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**

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 should 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.

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- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

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.

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

### **450.6.1 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 authorized designee.

### **450.6.2 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).

### **450.6.3 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 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.

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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.

### **450.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure. Any report should document the existence of the recording and where it is stored or archived so that it can be retrieved if needed.

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

- (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.

### **450.9 RETENTION OF RECORDINGS**

Recordings of the following should be retained for a minimum of five years per LAHD retention guidelines.

- (a) Incident 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 Los Angeles Port Police.

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).

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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).

#### **450.9.1 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.

#### **450.10 REVIEW OF RECORDED MEDIA FILES**

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside of the agency is strictly prohibited, except to the extent permitted or required by law. Members shall not record, create or retain duplicate or personal copies.

To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the Department. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Officers may be required to provide public safety statements without the opportunity to view recordings prior to giving the statement.

In incidents involving the use of deadly force, officers shall not be allowed to view recordings unless authorized in accordance with section 450.9. When there is evidence of misconduct, officers shall not be allowed to view recordings until authorized to do so by a supervisor. Under no circumstances shall any recordings be used or shown for the purpose of ridiculing or embarrassing an employee.

Any review of recorded audio or video is to be documented in writing in a manner that captures the date and time of the review, the reason for the review, and the individuals involved in the review. In circumstances when approval for review is required, the name of the individual granting approval is also to be documented.

Review of recordings will be permitted as follows:

(a) **Officers:**

1. For investigatory or tactical reference during an ongoing investigation or public safety response.
2. Prior to submitting to an administrative interview.
3. When preparing crime or arrest reports. Viewing recordings should not be a reason for officers to write a less detailed report.
4. At the beginning of shift to test the functioning of the system and to review start of watch information.

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5. With prior supervisor approval, when an officer who is captured on or referenced in the video or audio data requests to review such data for any purpose relating to his/her employment.
- (b) Supervisors:
1. When investigating a specific act of officer misconduct or meritorious conduct.
  2. When assessing officer performance.
  3. To assess proper functioning of the system.
- (c) Other Department Personnel:
1. Investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation.
  2. Training staff with prior supervisor approval to assess possible training value. If an involved officer objects to showing a recording for training purposes, his/her objection will be evaluated by the chain of command.
  3. Staff responding to public records requests after approval of the Chief of Police and in conformance with the Records Release and Security Policy. All such recordings should be reviewed by the custodian of records prior to public release.
  4. System managers to perform audit functions of the system or its use.
  5. Technicians to assess proper functioning of the system.
  6. Other department personnel, with supervisor approval, who request to review recordings for official purposes.
- (d) Outside Personnel:
1. Court personnel or prosecutorial agency through proper process and with permission of the Chief of Police or authorized designee.
  2. Media representatives through proper process and with permission of the Chief of Police or authorized designee.

### **450.11 REVIEW OF RECORDINGS IN USE OF DEADLY FORCE INCIDENTS**

If an officer is involved in a use of deadly force incident, the officer shall not review any recordings until authorized by the Command Duty Officer. Once authorized, the officer shall review the recording. An officer may have an employee representative present during the review of the recording. Additionally, an officer may elect to review the recordings without an investigator or supervisor present. The separating and monitoring of officers involved in a deadly force incident shall be maintained during the review of recordings and review shall not occur jointly among involved employees.

The supervisor that responds to the scene of the deadly force incident shall ensure the recording has stopped and maintain custody of the recording device or media until it is transferred to

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investigators or until given other direction by the Command Duty Officer. Supervisors shall not view recordings unless directed to do so by investigators or the Command Duty Officer.