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

## 450.2 POLICY

The Alameda Police Department may provide members with access to portable recorders, either audio, video, or both, for use during the performance of their duties. Body-worn cameras (BWCs) are issued primarily to uniformed personnel along with personnel assigned to investigations.It is the policy of this department that members should activate the BWC when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and law. 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. The recordings captured also assist the Department in establishing public accountability, procedural transparency, and assistance with criminal/civil proceedings including prosecution, litigation, and convictions.

## 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 Alameda Police Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

## 450.4 SYSTEM ADMINISTRATOR RESPONSIBILITIES

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

1. Operation and user administration of the system;

2. System evaluation;

3. Training;

4. This policy and procedure review and evaluation will take place no less than once annually;

5. Coordination with IT regarding system related issues; and

6. Ensure BWC files are retained in accordance with our retention requirements noted in this policy.

## 450.5 MEMBER RESPONSIBILITIES

All members assigned BWCs must complete an agency approved and/or provided training program to ensure proper use and operation. No member of this department shall operate a

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BWC without first completing this training. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.

Prior to going into service, each uniformed member, with the exception of those wearing Class A, will be responsible for making sure that he/she is equipped with a BWC, issued by the Department, and that it is in good working order. Equipment malfunctions shall be brought to the attention of the member's supervisor as soon as possible so that a replacement unit may be provided.

Uniformed members should wear the BWC in a conspicuous manner. Members shall ensure that the BWC is worn in such a way as to provide an unobstructed camera view of the officer's citizen contact. 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.

When using a recorder, the assigned member should record his/her name, employee 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.

For the purpose of this policy, any member 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 an investigation. This presumpiton shall not apply to contacts with other members conducted solely for administration purposes.It shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted BWC will have knowledge that such a contact is being recorded. Officers are not required to obtain consent from a private person when:

1. In a public place;

2. In a location where there is no reasonable expectation of privacy;

3. The inside of a building or dwelling where the officer is lawfully present and engaged in the performance of official duties.

Members are encouraged to advise private persons they are recording if they are legally inside a private dwelling only via consent and it does not hinder officer safety.

All BWC files shall be securely downloaded no later than the end of each shift.Members shall place the BWC into any open slot on the Evidence Transfer Manager (ETM) docking station. This will allow the data to be transferred from the BWC through the ETM to Evidence.com (a highly secured web-based digital media storage facility).The data is considered impounded at this point and the BWC is cleared of existing data. The BWC should not be removed from the ETM until the data has been uploaded and the battery has been fully recharged.

Each member shall be responsible for maintaining his/her own audio recordings until the media is either full or placed into evidence/safekeeping. Audio recordings should be downloaded no later than the end of each shift, prior to the member's departure. Should the member be unable to download the contents of his/her audio recorder prior to his/her departure, then the audio recorder

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should be downloaded no later than the beginning of the member's next duty day. Nothing in this policy prevents a supervisor from ordering an employee back to work to download the contents of his/her audio recorder, should the recordings be needed for an investigation.

Attach the connected report number to your recording in this format "1001234" (no dashes, no spaces).

#### 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).

Supervisors are responsible for ensuring members utilize the BWC and audio recording equipment according to protocol and policy guidelines. When calls for service are identified where recordings would enhance the mission of the Department, the supervisors should order officers responding to the call, via the police radio, to activate their BWCs.

The Inspectional Services Section will conduct periodic audits of recordings to ensure adherence to policy, assess performance, and for training purposes. Audits will be fair and impartial.

### 450.6 ACTIVATION OF THE PORTABLE RECORDER

There are many situations where the use of the BWC is appropriate. This policy is not intended to describe every possible situation where use of the equipment may be appropriate.

Public contacts: Officers shall record public contacts, whether in person or through telephonic means, in situations where he/she is operating in an official law enforcement capacity.

Non-public contacts: Officer shall record non-public contacts where there is a likelihood enforcement action may be taken. These situations include, but are not limited to:

- Code 3 driving
- K-9 deployment
- Deployment of a firearm
- Probation/parole searches
- Protective sweeps
- Service of arrest or search warrants

Audio only recordings shall be utilized in situations where the BWC becomes impractical (e.g. medical environment).

Communication between Law Enforcement Personnel outside the presence of any member of the public need not be recorded; provided, however, the body camera shall be immediately reactivated upon any public contact.

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At no time should an officer jeopardize his/her safety in order to activate a body camera recorder. However, if a member fails to activate their BWC as required by this policy, the member will be subject to discipline.

### 450.6.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the Alameda Police 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.

### 450.6.2 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member's 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.

Officers may cease recording when encountering or interviewing a victim who is in a vulnerable position or who asks not to be video-recorded.

Officers may cease recording when interviewing a subject who does not want to be video-recorded and the officer feels obtaining the information or statements exceeds the importance of video evidence.

In all cases above, the officer shall verbally express the intent and reason to stop recording prior to turning off the equipment, and should verbally express it has resumed if later reactivated.The officers should consider whether activating another type of recording device, such as audio recording would be appropriate for memorializing the interaction.

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.

### 450.6.4 REQUEST FOR DELETION OF ACCIDENTAL RECORDING

In the event of an accidental activation of the recorder where the recording is of no investigative or evidentiary value, the recording employee may request that the recorded file be deleted by submitting an email request with sufficient information to locate the recorded file to the Services Division Commander who shall review the file, approve or deny the request, and forward to the System Administrator for action. All requests and final decisions shall be kept on file with the Services Division Commander.

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## 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 Alameda Police 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.

BWCs shall be used only in conjunction with official law enforcement duties.The BWC shall not be used to record:

1.Encounters with undercover officers or confidential informants or receiving confidential information;

2.Conversations with law enforcement personnel that involve case tactics or strategy;

3.Strip searches;

4.When on break or otherwise engaged in non-business related activities; or

5.In any location where members have a reasonable expectation of privacy, such as a restroom or locker room.

### 450.7.1 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.

## 450.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

Any time a member records any portion of a contact, the member shall categorize the video into the appropriate category to ensure the recording is retained if there is evidentiary value. The user should also record the related case/incident number and transfer the file in accordance with the current procedures for storing digital files.The member shall also document the existence of the recording in the related case report on the first line of the narrative.Transfers shall occur at the end of the member's shift, or any time the storage capacity is nearing its limit, or as otherwise directed by a supervisor. Videos that have no evidentiary value need to be changed from "uncategorized" to "No Evidentiary Value" and purged in accordance to the deletion schedule.

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Members shall use the categorization and notation functions of Evidence.com to make notes within the system.Notes such as case numbers, suspect names, and citation numbers will facilitate flagging videos for review, discovery and retention.Members need not make notes on every recording, only recordings which should be retained according to the categorization schedule.Members shall designate retention of their videos in Evidence.com according to the nature of the incident (felony, misdemeanor, traffic stop, field interview, etc.) by using the categorization feature. Uncategorized videos will be deleted after two years so it is critical that videos are appropriately categorized.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact or citizen complaint); the member shall promptly notify a supervisor of the existence of the recording.Supervisors, managers, or system administrators may re-categorize recordings as they deem necessary.

### 450.8.1 RETENTION REQUIREMENTS

It is the responsibility of the member making the recording to categorize recordings in Evidence.com based upon the circumstances of the incident.Files should be securely stored in accordance with state records retention laws and no longer than useful for purposes of training or for use in an investigation or prosecution.All recordings shall 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 90 days.

While it is critical to retain recordings of evidentiary value, it is important that files of insignificant incidents are deleted in a timely fashion according to schedule.The following retention schedule should serve as a guide:

1. Homicide - permanent
2. Inspectional Services - 6 year retention
3. Felony - 3 year retention
4. All Use of Force - 3 year retention
5. Liability to the City - 3 year retention
6. Misdemeanor (including traffic related misdemeanors) - 1 year retention
7. 5150 W&I - 1 year retention
8. Citations/Warnings - 1 year retention
9. Field Interview Card/Incident Card/ Public Contact- Minimum 180 day retention
10. 901a/Fatal - 3 year retention
11. No Evidentiary Value - 90 days
12. Public Relations - 2 years
13. Admin Interviews - 3 years

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14. Uncategorized/Pending Review - Not to be used- Users will have to recategorize their BWCs from this category.

### 450.9 REVIEW OF RECORDINGS

Access to the data captured on the BWC 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 video according to the provisions of this policy.

Once uploaded to the server, personnel may view their own audio/video data at a department desktop computer. Access is automatically time/date stamped and records each access by name.

1. A member may review BWC files as it relates to their involvement in:

2. An incident for the purpose of completing a criminal investigation and preparing an official report

3. Prior to courtroom testimony or for courtroom presentation

4. For potential training purposes

Members may view all video that they appear in, either visually or audibly. Additionally, members may view other member's video if they were in close proximity of any functioning BWCs

Members with investigatory responsibilities may review BWC files under the provisions of this policy for the purpose of conducting official departmental business.

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.

Subsequent to an officer involved shooting, 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.

Recorded files may also be reviewed:

1. 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.

2. Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

3. By media personnel with permission of the Chief of Police or the authorized designee.

4. By members of the public involved in an active investigation after approval by a supervisor.

5. In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

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

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privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

Civilians shall not be allowed to review the recordings at the scene without supervisor approval.

## 450.10 RECORDINGS FOR TRAINING

A Portable Audio/Video Recorder file may be utilized as a training tool for individuals, specific units, and the Department as a whole. A recommendation to utilize a Portable Audio/Video Recorder file for such purpose may come from any source.

1. A member recommending utilization of a Portable Audio/Video Recorder file for training purposes shall submit the recommendation through the chain of command to the Bureau of Services Commander, or designee.

2. If a member objects to the showing of a recording, his/her objection will be submitted to staff to determine if the member's objection outweighs the training value.

3. The Bureau of Services Commander, or designee, shall review the recommendation and determine how best to utilize the Portable Audio/Video Recorder file considering the identity of the member(s) involved, sensitive nature of the incident, and the benefit of utilizing the file versus other means (Lexipol Policy, Training Bulletin, Officer Safety Bulletin, or additional training).

## 450.11 COORDINATOR

The Chief of Police or the authorized designee shall appoint a member of the Alameda Police 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.

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