

# **PALOS VERDES ESTATES POLICE DEPARTMENT**

## **POLICY MANUAL**

### **SECTION 37**

#### **AUDIO RECORDING EQUIPMENT**

Revised 02/07

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### **37.0 PURPOSE**

The purpose of this policy is to provide guidelines for the use of audio recording equipment carried by patrol officers.

### **37.1 INTRODUCTION**

Through the use of audio recording equipment, it is the intent of the Police Department to enhance public relations, criminal prosecutions, and training. At the same time, regular use of this equipment should limit the civil liability of the Department by reducing the number of citizen complaints, and the length of time it takes to investigate those complaints. It is also believed that the use of these recorders will reduce the necessity for mandated court appearances. The recorder will act as an independent third party witness to many police contacts which will prove favorable to officers and citizens alike.

### **37.2 POLICY**

It shall be this Department's policy that uniformed officers shall carry and utilize the audio recording equipment supplied by this Department in all citizen contacts which are reasonable and practical. It shall be the officer's responsibility to verify the device is in good working order at the beginning of each shift. If the device is found to be in poor operating condition, he/she shall notify a supervisor and request a replacement.

The department recognizes there are some situations that are not practical. For example, at no time shall an officer jeopardize his/her safety in order to activate the recording device. In instances where it is unreasonable, impractical, or impossible to activate the recording device, it is the duty of such officer to report the omission to his/her watch commander, as soon as possible. The omission and the reason for the omission will be documented in the Sergeant's Log.

These recordings are the property of the Department, therefore officers are prohibited from deleting any portion of them at any time except in accordance with the purging of official records, as prescribed by law.

### **37.3 SURREPTITIOUS RECORDINGS**

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 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 private citizens contacted by a uniformed officer wearing a conspicuously mounted tape recorder will have knowledge that such a contact is being recorded.

#### **37.4 OBJECTIVES**

It is intended that each recording system will be used to:

- A. Accurately document events in arrests and critical incidents.
- B. Replay those incidents for prosecution and courts, thereby increasing rates of convictions for violations of the law.
- C. Record critical incident circumstances for investigations, review purposes, and officer training.

#### **37.5 TRAINING**

Each officer in this Department will receive training in the proper use of the equipment before using it in the field. This training will include the following:

- A. The mechanical function of the system.
- B. Recorder handling and maintenance.
- C. Environmental factors influencing the system.
- D. Emergency use of the system.

- E. Methods and techniques of maximizing the system's effectiveness in criminal prosecution.
- F. Documenting the recorded incident in a written report.
- G. Departmental policy and procedures as they pertain to the system.

### **37.6 PROCEDURE AND MAINTENANCE**

#### **A. WATCH COMMANDER RESPONSIBILITIES**

At the end of each shift, the watch commander will download the recordings from each officer into the computer in the W/C office or the computer in the records supervisor's office. If for some reason this is not possible, the recording will be downloaded as soon as possible. Additionally, the watch commander will verify a successful download and confirm that the daily recordings were preserved. The watch commander will notate problems with the recordings on the sergeant's log.

#### **B. PATROL OFFICER RESPONSIBILITIES**

Prior to the start of patrol activities, the officer shall determine if the audio equipment is operating properly by turning on the system and observing the monitor and tape counter for movement. During this time, the officer will speak into the recording microphone and state his name and the name of any partner, reserve or civilian riding in the vehicle and the date, time, and day of the week.

During the course of his shift, the officer shall manually activate the recording device on every contact.

At the completion of each shift, the officer will manually activate the system, again state the date and time and also state that it is the "End of Shift." The officer will then bring the recorder into the station so the watch commander can download the information.

Officers will be able to playback their own recordings at any time once they are downloaded.

#### **C. SUBMITTAL OF RECORDINGS AS EVIDENCE**

When a police report is prepared on an incident that has been recorded, the officer may note in the body of the report that a recording unit was utilized and may copy the recording onto a disc and book the disc into evidence consistent with Department policy. This would include any

incident where a DR number has been associated with a report and there is any amount of recording associated with the case that the officer determines may be of evidentiary value. If the recording is to be used for criminal prosecution in a court of law, the disc will be tagged as evidence and placed in a Department evidence locker. Recordings will be retained for a period of 5 years.

D. RELEASE OF RECORDINGS AND COPIES

Unless a court order is issued to release an original recording, disc copies will be made available while the original recording will remain in evidence. The release of a recording copy to any agency, individual, or company will require the written approval of either the Chief of Police or a Division Commander. Releases to public agencies will be at no cost. Releases to private individuals or firms will be at the current established cost. Releases to the media will be handled on a case-by-case basis and must have the approval of the Chief of Police or the Officer in charge of the Police Department during his absence from the City.

E. MAINTENANCE

Each officer will be responsible for the care of their assigned recorder. If the officer finds a malfunction, he shall notify his supervisor immediately. He will be assigned a spare recorder until his unit can be fixed or replaced.