

## Video and Audio Recording

### 428.1 PURPOSE

The purpose of this policy is to enhance the public's trust in their police department, to improve officer safety, to provide the best evidence during criminal and civil actions and to assist in on-going training of personnel. It is understood that the laws governing the use of technology in police work often change and evolve. As a law enforcement organization, we are singularly committed to the supremacy of the law. Therefore, our policies and practices will likewise defer to the law, as a minimum standard, for the protection of all persons, whether they are defendants, members of the community or employees.

This policy is intended to apply to the use of audio and video evidence gathered by police personnel via digital audio recorders, body-worn video systems, mobile video systems and any other similar technology that may be developed subsequent to the adoption of this policy.

#### 428.1.1 POLICY

It is the policy of the Riverside Police Department that Uniformed Personnel shall make reasonable efforts to record, in their entirety, all traffic stops, all officer-initiated pedestrian stops, service of arrest or search warrants, all parole or probation searches, all dispatch-initiated activity, and whenever directed to do so by a superior officer. There is no expectation for employees to run any recording system non-stop for the duration of their shift. Recording devices shall be turned on and off for particular incidents in accordance with this policy.

Employees are prohibited from intentionally recording personal contacts not related to official duties, and for this reason shall not record other employees except when such recording is incidental to a recording otherwise required or permitted by this policy. Employees should not knowingly record conversations with witnesses where their identity would otherwise be unknown and recognition of the person would compromise an investigation or subject the person to unreasonable risk.

Employees who are issued both a digital audio recorder and Body-Worn Video Systems (BVS) need not activate both simultaneously, but shall rely on the BVS as their primary recording system.

Employees who have activated their Mobile Video System (MVS) are still required to activate the BVS upon exiting the vehicle, and to continuously operate it until the conclusion of the incident or until they are permitted to turn it off in accordance with this policy. Employees are not required to carry the MVS wireless microphone while wearing the BVS recorder.

Unless otherwise required by this policy, employees shall not operate Body-Worn Video Systems (BVS) in sensitive areas such as restrooms, locker rooms, jails, or medical facilities.

Employees should give consideration to the balance between the need to preserve evidence and a victim's dignity/ privacy concerns whenever utilizing a BVS to record a victim's statement or physical condition. In such circumstances, the use of a digital audio recorder may be a preferable alternative to the BVS.

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In some circumstances, a victim may request that the police not record him/her. While police officers are not legally required to honor such a request, consideration should be given to the victim's wishes and any potential evidentiary value of recording the statement. If the victim requests to not be recorded, and the officer determines there is an articulable reason why a recording of the statement may be of no evidentiary value, the officer may accommodate the request by not recording that victim's statement.

Employees are prohibited from copying, altering, editing, deleting, or distributing any audio or video recording except as authorized by this policy. All recordings are the property of the City of Riverside and are subject to review, reproduction and distribution as deemed necessary by the Chief of Police, or designee. Personnel have no privacy interest in these recordings. Such review, reproduction and distribution may be done without prior knowledge or authorization of the employee(s) involved, except as provided for under this policy.

#### **428.2 DEFINITIONS/DESCRIPTIONS**

- (a) Traffic Stops are any action undertaken by an officer with the intent to cause the driver of a vehicle to stop and submit to police inquiry. For the purpose of this policy, traffic stops include the stopping of a vehicle pursuant to the use of emergency lights on a police vehicle, or the use of physical motions or verbal commands to accomplish the same goal.
- (b) Pedestrian and Bicyclist Stops are any self-initiated action by an officer with the intent to cause a pedestrian or bicyclist to stop and submit to police inquiry. For the purpose of this policy, pedestrian and bicyclist stops include the stopping of a pedestrian or bicyclist pursuant to use of emergency lights on a police vehicle, the use of physical motions, or verbal commands. Further, for the purpose of this policy, pedestrian and bicyclist stops include those encounters with members of the public generally characterized as "consensual encounters" by the courts.
- (c) Entirety is the period of time commencing when any action is undertaken by an officer to stop or otherwise make contact with a person(s) or vehicle(s), and concludes when the officer releases and leaves the immediate presence of the person or vehicle.
- (d) Uniformed Personnel is defined as on-duty sworn and civilian uniformed employees who are engaged in enforcement or investigative activities, regardless of rank or regular assignment.
- (e) Digital Audio Recorder is a recording device issued by the Department to an employee capable of being carried in a pouch or on a clip on the Sam Brown duty belt, or within a pocket of an employee's uniform, or clipped onto the uniform.
- (f) Body-Worn Video System (BVS) refers to a portable audio/video recording system made and intended to be worn on the person. They are designed to be attached to the employee's uniform or clothing in a manner so that they capture video of any activity occurring directly in front of the employee.
- (g) Mobile Video System (MVS) refers to the system installed into marked police vehicles for the purpose of creating and storing digital audio and video recordings. MVS consists of the following components:
  - 1. Recording system mounted within the police vehicle including the camera, monitor, touch screen, CPU, and related controls.

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2. MVS wireless microphone. The MVS wireless microphone shall be left in the charging cradles located inside the police units.
  3. Wireless transfer antennas and power management unit.
- (h) Buffered Recordings are video recordings automatically and continuously captured on the MVS redundant or secondary drive (also known as the "fail safe") once an employee logs into the MVS. Buffered video recordings are captured on the secondary drive even though an employee has not activated one or more of the triggers. Buffered video recordings remain on the redundant or secondary drive until the maximum storage capacity on the drive is reached, which is estimated to be approximately 25 hours of recordings. Once maximum storage capacity is reached, the oldest recordings are overwritten by newer video recordings. There are three (3) triggers which will activate a recording of the MVS: activation of the emergency lights, activation of the wireless microphone, or pressing the "record" button on the touchscreen. Pre-event recording from the buffered recordings is set for sixty seconds prior to the activation of any of the three triggers.
- (i) Administrative Investigations include, but are not limited to, administrative personnel investigations (Citizen Complaint or Internal Investigation wherein a PC or PA number is pulled), use of force investigations, traffic accidents, K9 apprehensions, investigations on damage to property, pursuit critiques, and investigations on employee industrial injuries.

#### 428.3 PROCEDURES

- (a) The Department will issue a digital audio recorder and BVS to all uniformed personnel (as defined by this policy) assigned to Field Operations or Special Operations. Digital audio recorders and/or BVS systems may be issued to other employees at the discretion of the Division Commander. Personally owned recorders shall not be used to comply with this policy.
- (b) Employees are responsible for the proper use, care and serviceability of the BVS and digital audio recorder issued to them. Employees shall as soon as practical notify their supervisor if their BVS or digital audio recorder is inoperable.
- (c) Employees are responsible for the proper use, care and serviceability of the MVS in their assigned police vehicle. Employees shall as soon as practical notify their supervisor if the MVS, or any component thereof, is inoperable. Employees shall then send a Department e-mail addressed to "HELPDESK" to the City's Information Technology Department to report the need for repair of the MVS with a courtesy copy (cc) to their immediate supervisor.
1. The police vehicle shall not be used until repair is completed unless no other marked units are available and authorized by a supervisor.
  2. If the MVS becomes inoperable at any time during an assigned duty shift, the police vehicle may be operated until the conclusion of the shift at which time it shall be removed from service until repairs are completed.
  3. If the MVS wireless microphone is determined to be the only inoperative part of the MVS, the employee shall obtain a replacement MVS wireless microphone from a supervisor.

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- (d) At the beginning of each duty shift, the employee(s) assigned to a marked unit shall log onto the MVS using the MVS touch screen, insuring that the correct date and time is reflected. The log on process is explained in more detail in the most recent edition of the MVS - COBAN - Training Guide that can be found on the S drive in the "Approved Training" folder.
  - 1. The MVS wireless recorder shall be synced with the monitor at the beginning of the shift.
- (e) All incidents where recording is required pursuant to this policy shall be recorded in their entirety.
  - 1. Whenever possible, the BVS recorder shall be started prior to the contact. If confronted with an unexpected event, an employee's first priority is always personal safety and the safety of other persons. This may require an employee to initially concentrate on possible threats or the safe operation of a motor vehicle. Employees are expected to activate their recordings as soon as it would be safe and reasonably practical to do so.
  - 2. Employees shall not turn off the BVS recorder at any time during any contact where recording is required pursuant to this policy. If a recording is inadvertently turned off, the employee shall notify their supervisor as soon as practical, but no later than the end of the employee's shift. The MVS may be turned off, however, if the employee will be away from the unit for an extended period of time and any video that would be recorded would likely be of no evidentiary value.
- (f) Employees who are required to write a police report pursuant to any other incident will be allowed to review relevant video and audio files while completing the report to ensure accuracy and completeness. Sergeants conducting an administrative review of any incident shall review relevant video and audio files during the course of their review. Employees will not be permitted to listen to or view audio and video recordings prior to providing an uninterrupted narrative of their initial perception of the incident in a criminal interview regarding a use of force incident where death or serious bodily injury is likely to occur. Investigators shall allow employees to listen to and view relevant digital audio and video recordings captured pursuant to this policy prior to any subsequent interviews conducted to clarify any discrepancies that may exist between their initial narrative statement and the recording(s). Employees shall be permitted to listen to or view relevant recordings in an administrative interview.
- (g) Employees may schedule an appointment with a Records Bureau supervisor to inspect the audit trail of any of their own recordings to ascertain who has listened to or viewed the recording.
- (h) Employees may turn off the MVS/BVS when necessary to confidentially communicate with another employee and while not in the immediate proximity of the person(s) stopped or contacted. However, the recorder shall be restarted just prior to re-contacting that person(s).
- (i) In the event an employee discovers that he or she has failed to record an incident as required by this policy, he or she shall as soon as practical notify an on-duty supervisor or Watch Commander.

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- (j) In the event an employee discovers that a digital audio recorder, body-worn video system, or mobile video system may have malfunctioned, he or she shall as soon as practical notify an on-duty supervisor or Watch Commander. The employee shall also send an e-mail to that supervisor, listing the specific identifying information on the malfunctioning recorder or mobile video system and describing the malfunction so that the supervisor can arrange for replacement or repairs to be made.
- (k) Employees shall note the existence or absence of any related audio or video recording(s) in any police report (including citations and FI cards) completed by them.
- (l) Where multiple employees with digital audio recorders, BVS, or MVS are present at an incident and recording is required, all employees shall record the incident if they are in the immediate proximity of the person or vehicle being contacted, such that it would be reasonable to believe the employees' recording device might capture recordings of conversations or actions related to the incident.
- (m) Employees shall not delete, alter, edit, or otherwise change any audio or video recording, or attempt to perform any of these acts. Except for personnel authorized by the Records Bureau Manager, employees shall not copy any audio or video recording without the express approval of the Chief of Police or designee.
- (n) School Resource Officers are not required to record routine, non-enforcement contacts with students that occur on or in the immediate proximity of school campuses, or at school sponsored activities.
- (o) The officer(s) assigned to the Galleria is not required to record non-enforcement related contacts with the public on the properties of the Galleria. For this provision, non-enforcement related contacts are those which typically occur in welcoming or greeting the public, providing directions or assistance to the public, and those interactions in the course of promoting good police relations with the public and business community.
- (p) Uniformed personnel who are functioning primarily in an administrative or support capacity may be excused from wearing a BVS or digital audio recorder where their duties would not reasonably require them to take enforcement actions.
- (q) The Incident Commander of a special event such as the policing of a festival, parade, air show, or neighborhood/ community activity is authorized to suspend the requirement to record public contact which involves welcoming, greeting, providing directions, or assistance to the public. However, employees are required to activate their recording devices when they knowingly initiate enforcement action. If the enforcement action occurs unexpectedly, employees are required to activate their recording devices as soon as it would be safe and reasonably practical to do so.
- (r) The Incident Commander of a critical incident or special enforcement detail, such as a Traffic Check-Point, is authorized to suspend the requirement for uniformed personnel assigned to the incident to record all pedestrian stops when, in his or her judgment, the incident is likely to involve numerous brief encounters with citizens, such that it would be too onerous to continually activate and de-activate their recording devices, and doing so would distract them from focusing on personal safety and the safety of other persons. However, officers are required to activate their recording devices when they knowingly initiate enforcement action. If the enforcement action occurs unexpectedly, employees are required to activate their recording devices as soon as it would be safe and reasonably practical to do so.

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### **428.4 RECORDING PROCEDURE**

- (a) If an employee makes either an accidental or test recording on the MVS, BVS, or their digital audio recorder the incident shall be downloaded using the standard incident number format. Employees will use "PYY999999" for audio recordings and PYY888888 for BVS recordings, where "YY" is the two digit number reflecting the calendar year.
- (b) If an employee believes that an audio or video recording may be considered "evidence," that employee shall send a Department e-mail message to "RPD Records Mgmt" containing the incident number and a comment that the recording must be retained for evidentiary purposes. Video and audio recordings which pertain to a use of force or officer involved shooting, are required in the prosecution of a person under arrest, or pertain to a personnel complaint, shall be retained for a minimum of two years.
- (c) If a recording contains material of a potentially sensitive or embarrassing nature, the employee shall notify a supervisor who will determine if the video needs to be secured. If so, the supervisor shall send a department e-mail message to "RPD Records Mgmt" containing the incident number, date, and time of the recording so that the file can be locked.

### **428.5 RECORDING CONTROL AND MANAGEMENT PROCEDURE**

- (a) Except as described in paragraph (e) below, audio and video recordings will be maintained by the Records Bureau for one year or as otherwise prescribed by law, whichever is greater.
- (b) Requests for copies of recordings will be routed to the Records Bureau, using the Digital Recording(s) Request Form. Copies of digital recordings received from the Records Bureau are considered certified and shall not be released except to the authorized person or entity.
- (c) As part of an administrative investigation, Internal Affairs may request that the Records Bureau Manager or designee secure an original recording or recordings. Internal Affairs may grant access rights or copy files from the secure folder and distribute those files as necessary to complete an investigative and/or disciplinary process.
- (d) Upon receipt of a request to preserve a recording as evidence, personnel assigned to the Records Bureau shall secure the recording. The recording shall not be disposed of thereafter without written authorization from the case agent, his or her supervisor, or manager in the case agent's chain of command.
- (e) Recordings will be preserved as evidence based upon receipt of written direction from department managers, supervisors, case agents or other authorized personnel. Such written direction must specify the recording(s) to be preserved. The Records Bureau Manager may elect to preserve recordings, designated as having evidentiary value.
- (f) Employees shall not make copies of recordings, or use personal recording devices (eg, smartphones) to capture audio or screen video from official MVS, BVS or digital audio recordings.

### **428.6 SUPERVISORY RESPONSIBILITIES**

- (a) Supervisors shall regularly inspect audio and video recording devices to ensure the devices are operating properly, programmed correctly (accurate date, time and officer identification

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- number) and issue replacement digital audio recorders, BVS recorders, or MVS wireless microphones, as necessary.
- (b) Supervisors shall regularly conduct random audits of the audio and video recordings made by their subordinate employees to verify compliance with this policy.
  - (c) Supervisors may review any relevant digital audio and video recordings prior to approving police reports, and shall review all relevant recordings prior to approving administrative reports related to those recordings.
  - (d) Upon notification from an employee that a recording required by this policy was lost or not made, the supervisor shall send a Department e-mail notification to "RPD Records Mgmt" as soon as practical, but no later than the end of that supervisor's shift.
  - (e) Often, employees can receive a training benefit from reviewing a recording of an incident that depicts the use of particular tactics. Therefore, supervisors may, with the written consent of the involved employee(s), use recordings of field incidents for training. However, employees shall not, except with the express consent of the Chief of Police or designee, use recordings depicting incidents that are the subject of litigation, incidents outlined in the OIS policy, or incidents that are the subject of administrative personnel actions. Supervisors shall not use recordings that are humiliating to employees, unnecessarily gruesome, or otherwise offensive.
  - (f) The incident commander at the scene of any significant use of force or any other critical incident, upon determining that there is no longer a need for the involved employee(s) to continue recording, shall direct an uninvolved supervisor to secure the recording device(s) from the involved employee(s). The uninvolved supervisor shall stop the recording. On officer involved shootings and incidents where death or serious likelihood of death results, the uninvolved supervisor securing the recording device(s) from the involved employee(s) shall only release the audio recording devices to a member of the Officer Involved Shooting Team, who will be responsible for uploading the recording(s) and entering the appropriate incident number. For all other incidents, the uninvolved supervisor securing the recording device(s) from the involved employee(s) shall be responsible for uploading the recording(s) and entering the appropriate incident number (Penal Code §832.18).
  - (g) Supervisors shall not view buffered video recordings unless they are conducting a criminal or administrative investigation, and then may only do so with prior approval of a superior officer. Criminal investigators with their supervisor's approval are authorized to view buffered video data only when necessary as part of a criminal investigation. If asked by a superior officer, supervisors must be able to provide a specific, articulable and justifiable reason for viewing relevant buffered video recordings that conforms to the expectations of the Chief of Police.
  - (h) The incident commander at the scene of any significant use of force or any other critical incident, upon determining there is no longer a need to continue MVS recording, shall direct an uninvolved supervisor to stop the MVS recording and enter the appropriate incident number.
  - (i) If the incident commander at a critical incident determines there is a compelling need to immediately view buffered video recordings or BVS video, the incident commander may authorize a supervisor to view the video. Viewing buffered video in these situations must be done on the specific MVS equipment in the police vehicle where the recordings were

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captured. BVS video may be viewed by connecting the BVS recorder to a department computer, or connecting it to the MDC in a supervisor's unit.

- (j) If a supervisor is conducting or overseeing an administrative or criminal investigation and determines there is a need to preserve buffered video, the supervisor shall contact City of Riverside Information Technology and arrange to have the relevant buffered video preserved.

#### **428.7 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.
- (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.

#### **428.8 MEMBER PRIVACY EXPECTATION**

All recordings made by members acting in their official capacity shall remain the property of the Department regardless of whether those recordings were made with department-issued or personally owned recorders. Members shall have no expectation of privacy or ownership interest in the content of these recordings.