

ESCONDIDO POLICE DEPARTMENT INSTRUCTION	DATE: 01-23-15	NO: 1.51 ADMINISTRATION
TO: ALL PERSONNEL	SUBJECT: USE OF RECORDING DEVICES	
ORIGIN: CHIEF OF POLICE	RETAIN: UNTIL FURTHER NOTICE	

This Department Instruction supersedes Department Instruction 1.51, dated July 22, 2014.

I. PURPOSE

This Instruction establishes policy and procedures for the use of portable digital recording devices and the storage of captured video and audio.

II. GENERAL

Digital recording devices are valuable tools for law enforcement officers to capture audio and video of their activities and to gather evidence during the performance of their law enforcement duties. The devices also provide an effective training and self-evaluation resource for individual officers and their supervisors. California Penal Code section 633 recognizes that a law enforcement officer, when acting within the scope of his/her authority, may record any communication that can be lawfully overheard.

III. DEFINITIONS

- A. Confidential Communication – any communication carried on in circumstances as may reasonably indicate that any party to the communication desires it to be confined to the parties thereto, but excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.
- B. Digital Recording Device – any portable equipment designed or used to capture audio or video in an electronic format such as body video cameras and smart phones.
- C. Uniformed Officers – All Department personnel in marked uniform attire including Sworn Officers, Reserve Officers, Community Service Officers and Custody Transport Officers who are issued Department digital recording devices. This shall include plain clothes personnel wearing the load bearing vest or other raid gear marked with police insignia.

IV. POLICY

- A. Training & Use

1. Only digital recording devices issued or approved by the Department shall be routinely used. However, if unusual circumstances exist where an officer decides to use a personal recording device in the course and scope of his/her duties, any information recorded shall be retained following the same procedures provided for City-issued equipment.
2. All officers shall receive training in the use, care and maintenance of portable digital recording devices.
3. Officers should ensure that their issued digital recording devices are properly charged and that there is sufficient available memory at the beginning of their shift.
4. Digital video recording devices shall be worn in a manner that maximizes the recordable viewing area and shall be sufficiently anchored and/or tethered to prevent loss of the device.
5. Officers shall only use Department-issued digital recording devices in the course and scope of their authority as a law enforcement officer.

B. Recording Policy

1. Uniformed officers, except as provided in subsection H, shall activate their issued digital recording device when participating in the following scenarios:
  - a. Responding to Dispatch directed radio calls, except for routine property report type calls. Officers have the discretion to start the recording while enroute to the call or once they arrive, depending on the circumstances.
  - b. Covering another City employee or law enforcement officer during an enforcement contact; including, but not limited to, CSOs, Parking Enforcement Officers, etc.
  - c. Special events while in uniform. For example: checkpoints, parades, special enforcement details within or outside the city of Escondido.
  - d. Citizen contacts such as traffic stops, pedestrian stops, and field interviews.
  - e. During the execution of a search or arrest warrant, Fourth Amendment waiver search, and other contacts that may lead to an arrest.
  - f. Arrests or incidents where force is likely to be used.
  - g. Suspect, victim and witness interviews on felony crimes.



5. Officers shall not save any recorded data to any public or personal website or onto any public or personal computer, disc or portable media storage device, other than authorized Department computers, and shall not reproduce recorded data in any other format, or release data to the public or to the Media without express authorization from the Chief of Police or his designee.
6. Officers shall not delete any data from a digital recording device prior to saving the data into the Department's designated media storage system.
7. Officers will not download or copy digital files once they are saved into the Department's designated media storage system. If copies are needed for court or other lawful purposes, officers will submit a request to the appropriate Division.
8. Officers shall not view videos taken by other Department personnel unless required for investigative purposes.

## V. PROCEDURES

### A. Recorded Video

1. All video recordings shall be retained for one year and/or as set forth in the City's Retention Schedule and as required by federal or state law. All recordings related to any criminal proceeding, claims filed, pending litigation, or a personnel complaint, shall be preserved until that matter is resolved.
2. All recordings captured shall be saved to the Department's designated media storage system by the officer wearing the digital video recording device prior to ending his/her shift.
  - a. Supervisors retain authority to take possession of any City-issued equipment as part of any investigation. When exercising such authority, the supervisor shall save the recorded information into the Department's designated media storage system or transfer the custody of the recording device to an authorized Forensic or Evidence Technician.
  - b. Forensic and Evidence Technicians have the same authority and responsibility as supervisors when acting in the regular performance of their duties and processing digital data.
  - c. In any case where a supervisor or Forensic/Evidence Technician takes possession of an officer's digital recording device as part of an investigation, the supervisor or Forensic/Evidence Technician shall return the digital recording device to the affected officer as soon as

practical after saving any captured video into the Department's designated media storage system. Should the digital video recorder itself be considered evidence in a case and need to be impounded, the supervisor or evidence technician collecting the device shall make arrangements to provide the officer with a replacement unit as soon as reasonably practical.

3. All video shall be saved using the approved Department format.

B. Report Writing

1. In instances where video is obtained and a written report or citation is generated, the officer will document in the report or on the back of the citation that video exists and the video was downloaded.
2. **Officers and/or supervisors may review video if needed during the preparation or review of reports.**
3. **In the case of critical incidents, it shall be at the discretion of the supervising officer or investigator whether officers are allowed to view their video(s) prior to issuing a statement.**

VI. ADMINISTRATION

- A. The Records Manager is designated as the Custodian of Records for all digital recording device data files.
- B. Officers may review the audio or video from their device prior to submitting a written document on the incident or being interviewed, but the Chief of Police or his designee may restrict access that could compromise an investigation.
- C. Recordings made pursuant to this policy are Department records and may only be released in accordance with this policy or by law.
- D. **Video files may be redacted and/or deleted if, upon review by a designated video administrator, they are deemed to constitute a breach of officer(s) privacy, or are not pertinent to an incident previously being recorded. At no time will video deemed evidence be deleted or redacted.**