
Portable and Mobile Audio/Video Recorders

423.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable/mobile audio/video recording devices by members of this department while in the performance of their duties. Portable/mobile audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment or vehicle.

This policy does not apply to audio/video recordings related to interviews or interrogations conducted at any Santa Barbara Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

423.2 POLICY

The Santa Barbara Police Department 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.

The Santa Barbara Police Department has also equipped various patrol vehicles with mobile audio & video (MAV) recording systems to provide records of events and assist officers in the performance of his/her duties.

It is the policy of the Santa Barbara Police Department to use portable/mobile audio/video technology to assist in fulfilling the department's overall central mission and to ensure that these systems are used securely and in an efficient manner.

423.3 COORDINATOR

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable/mobile audio/video recording devices and the storage of recordings, (Penal Code § 832.18). The appointed coordinator for the Santa Barbara Police Department is the Investigative Division Lieutenant. The Information Technology Manager will assist with technical requirements as needed. The coordination responsibility includes :

- (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.

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- (g) Maintaining logs of access and deletions of recordings.

423.4 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.

423.5 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member who has been issued a portable audio/video device will be responsible for making sure that he/ she is equipped with the device 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.

At the start of each shift, members should test the marked police vehicle MAV system's operation in accordance with manufacturer specifications and department operating procedures and training. System documentation is accomplished by the officer selecting his/her name from the list of users and by verifying that this was accomplished at the end of the shift. If the system is malfunctioning, the officer shall make a notification to a supervisor. The supervisor will determine if the vehicle should remain in service.

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, SBPD 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.

At the end of the shift, each member that used a marked police vehicle for a shift will follow the established procedures, which include ensuring that the download icon on the screen has been displayed upon returning the vehicle to the station.

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.

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423.5.1 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a portable audio/video recording device or confirmation/security of mobile audio/video data 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 incidents, and ensure the data is downloaded (Penal Code § 832.18).

Supervisors should determine if marked police vehicles with non-functioning MAV systems should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made, including notification of the Communications Center

At reasonable intervals, supervisors should validate that:

- a. Beginning and end-of-shift recording procedures are followed.
- b. The operation of portable audio/video systems by new employees is assessed and reviewed no less than biweekly.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor, MAV technician, or crime scene investigator properly retrieves the recorded media or device. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recording media/devices.

Supervisors may activate the vehicle MAV system remotely to monitor a developing situation, such as a chase, riot or an event that may threaten public safety, officer safety or both, when the purpose is to obtain tactical information to assist in managing the event.

423.6 ACTIVATION OF THE AUDIO/VIDEO 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
- (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

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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.

423.6.1 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).

423.6.3 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.

423.6.4 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 the authorized designee.

423.6.4 MARKED POLICE VEHICLE MAV ACTIVATION

The marked police vehicles MAV system is configured to turn on in the following circumstances:

- (a) By manual activation
- (b) When the vehicle's emergency lights are activated
- (c) When the button to release the rifle has been activated
- (d) When the speed of the vehicle has reached or exceeded 80 MPH
- (e) When the MAV systems detect the vehicle has been involved in a collision

The system will remain on until it is turned off manually by the member. The audio portion is independently controlled and shall be activated manually by the officer or set to automatically record audio when recording is triggered. When audio is being recorded, the video will also record. This device will coordinate with other portable audio/video devices.

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423.7 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.

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.

423.7.1 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 (Penal Code § 832.19).

423.8 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 and document the existence of the recording in any related case report.

423.9 RETENTION OF RECORDINGS

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incidents 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 Santa Barbara Police Department

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).

Members who reasonably believe that a MAV recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer or against the Santa Barbara Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

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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).

423.9.1 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.

Only personnel that are authorized and trained to download and/or duplicate recorded media may do so.

423.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

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.

Recorded files may also be reviewed:

- (a) For use when preparing reports or statements by an officer who is captured in the video
- (b) By a supervisor investigating a specific act of officer conduct
- (c) By a supervisor who articulates a specific reason to assess officer performance
- (d) To assess the proper functioning of MAV systems
- (e) By department investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry, or a criminal investigation
- (f) By an officer who is captured on or referenced in the video or audio data and reviews and uses such data for any purpose relating to his/her employment
- (g) By court personnel through the proper process or with permission of the Chief of Police or the authorized designee
- (h) By the media through the proper process or with permission of the Chief of Police or the authorized designee
- (i) With approval from a supervisor, to assess possible training value
- (j) When approved by a supervisor, recordings may be shown for training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the officer's objection

All recordings should be reviewed by the Custodian of Records or his/her designee prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate

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

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.