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CITY OF LOS ANGELES
HARBOR DEPARTMENT
OFFICE MEMORANDUM

May 3, 2021

To	From
ENVIRONMENTAL MANAGEMENT	
FINANCIAL MANAGEMENT	
GOODS MOVEMENT	
GOVERNMENT AFFAIRS	
GRAPHIC SERVICES	
HUMAN RESOURCES	
INFORMATION TECHNOLOGY	
LABOR REL & WORKFORCE DEV	
MANAGEMENT AUDIT	
MEDIA RELATIONS	
PLANNING & STRATEGY	
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TRADE DEVELOPMENT	
WATERFRONT/COMM REAL ESTATE	
WHARFINGERS	

SPECIAL ORDER 21-03

TO: All Port Police Personnel

SUBJECT: MODIFICATION TO POLICY MANUAL SECTION 450 BODY WORN AND MOBILE AUDIO VIDEO CAMERA SYSTEMS

Effective immediately, revised Policy Manual Section 450 shall be implemented. Policy Manual Section 450 has been revised to provide Department personnel with guidelines for the use of Body Worn and Mobile Audio Video recording devices. These revisions are due to changes in legislation that impact best practices.

Additionally, Policy Manual Section 446 Mobile Audio/Video will be deleted as related information is now contained in Policy Manual Section 450. As reflected in the policy, there is a transitional grace period for personnel to become acclimated with the Body Worn and Mobile Audio Video Systems.

All staff are directed to read and be familiar with the attached policy, which will be incorporated in the Policy Manual.

THOMAS E. GAZSI
Chief of Police

TEG:GPC:MEO:arl

Body Worn and Mobile Audio Video Camera Systems

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. Any and all audio/video recording devices provide additional documentation of police/public encounters and may be an important tool for collecting evidence, employee training, and maintaining public trust. Recording equipment includes all recording systems whether installed in marked patrol vehicles, body-worn, hand held, or integrated into portable equipment.

This policy does not apply to interviews or interrogations conducted by Detectives, authorized undercover operations, wiretaps, or eavesdropping (concealed listening devices).

450.2 TRAINING

Prior to usage and deployment in the field, officers assigned a Body Worn Camera (BWC) or a Mobile Audio Video (MAV) equipped vehicle must complete department-approved training on the proper use and maintenance of the BWC or MAV and their associated devices. To ensure the positive implementation of the BWCs and MAV vehicles, a 90-day transitional grace period is established to provide officers with adequate time to become acclimated to the use of BWCs and MAV equipped vehicles in the field following training. The transition period begins when the officer is issued their BWC and completes the BWC and MAV trainings. Should any officer be absent from their assignment for a period greater than six months (FMLA, Long Term IOD, etc.), they would be afforded their first 30 days to get re-acclimated in the use of BWC and MAV equipped vehicles. Intentional failures to activate the camera or comply with this policy are not subject to the grace period.

450.2.1 DEFINITIONS

- (a) **Activate** - Any process that causes the BWC or MAV system to transmit or store audio/video or data in an active mode.
- (b) **Body Worn Camera (BWC)** - Audio and video recording device in or on an officer's uniform issued by the Department.
- (c) **Buffering Mode** - The BWC and MAV systems will continuously loop a video recording for 120 seconds before the officer initiates the recording. While buffering, only video (no audio) is being recorded.
- (d) **Digital Evidence** - Photographs, audio records, and video footage captured by a BWC or MAV device and stored digitally.
- (e) **Digital Evidence Management System** - A technological solution (i.e. Evidence.com), which stores digitally encrypted data accessible to personnel based on security clearance.

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- (f) Docking - The process by which an employee places a BWC into a network attached data transfer device, which causes videos recorded onto the BWC to be uploaded to the Digital Evidence Management System, the BWC battery to charge, and the firmware to update.
- (g) Evidence.com - An online, cloud-based digital media storage repository. All media is stored in a highly secure environment, accessible only by authorized personnel.
- (h) Metadata - DR numbers, CAD numbers, GPS, and other descriptors used to identify digital evidence.
- (i) Mobile Audio Video (MAV) Dash Camera - Any system that captures audio and video signals, that is capable of installation in a vehicle (or motorcycle), and that includes at a minimum, a camera, microphone, recorder, and monitor.
- (j) Recorded Media - Audio/Video signals recorded or digitally stored on a storage device or portable media.

It is the intent of this policy to encompass any and all audio and/or video type recording devices regardless of make, model, type of deployment, etc. Examples include BWCs, MAVs, audio only recorders, cellular (Smart) telephones, motor officer helmet cameras, etc. Simply, any device that can capture and/or record any type of media (digital or analog) is to be considered an audio/video recording device for the purpose of this policy regardless of personally or Department owned.

450.3 POLICY

The Los Angeles Port Police may provide members with access to MAV, BWC, or portable recorders for use during the performance of their duties. The use of audio or video recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

It shall be deemed a violation of this policy for an officer to fail to activate a BWC or MAV when activation is required under this policy; or intentionally terminate a recording in order to commit a violation of law or Department policy.

At no time is a member expected to jeopardize his/her safety in order to activate their BWC, MAV, or change their recording media. However, the recorder should be activated as soon as reasonably practical.

450.4 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.

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- (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.

450.5 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.

450.6 MEMBER RESPONSIBILITIES

When portable recorders are provided, prior to going into service, each uniformed field member, other than administrative staff, shall be responsible for making sure that he/she is equipped with a portable recorder 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. The BWC is worn on the outside an officer's uniform, generally at chest level, facing forward to make video and audio recordings.

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, or at the direction of a supervisor. 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, Los Angeles Port Police 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.

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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450.6.1 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if the vehicles with non-functioning MAV systems should be placed into service. If these vehicles are placed into service, appropriate documentation indicating the inoperability shall be made on the deployment roster and notification to the Watch Commander.

When an incident arises, that requires the immediate retrieval of the recorded media (e/g., serious critical incidents, 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 or secures the recorded media. The media shall be treated as evidence and handled in accordance with current evidence procedures for recorded media (see policy manual § 804).

Supervisors should take custody of a portable audio/video recording device that does not have automatic downloading capability 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).

450.7 ACTIVATION OF THE BODY WORN OR MOBILE AUDIO VIDEO RECORDER

This policy is not intended to describe every possible situation in which the audio/video recording device should be used, although there are many situations where its use is appropriate.

In some circumstances, it is not possible to capture images of the incident due to conditions or the location of the MAV camera position. However, the audio portion along with the video from the BWC can be valuable evidence and is subject to the same activation requirements as the MAV.

Officers shall activate the BWC and MAV (if the vehicle is so equipped) prior to initiating any investigative or enforcement activity involving a member of the public, including all:

- (a) Response to calls for service to include any crimes in progress.
- (b) Vehicle stops: including traffic stops, stranded motorist, suspicious vehicles, and vehicle checkpoints.
- (c) Pedestrian stops.
- (d) Consensual encounters.
- (e) Code Three responses (including vehicle pursuits) regardless of whether the vehicle is equipped with In-Car Video equipment.
- (f) Foot pursuits.
- (g) Vehicle and Field Searches.
- (h) DWI/DUI investigations including field sobriety tests.
- (i) Arrests.
- (j) Use of force.
- (k) In-custody transports.
- (l) Witness and victim interviews (except as specified below).

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- (m) Crowd management and control involving enforcement or investigative contacts.
- (n) Any contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
- (o) Other investigative or enforcement activities where, in the officers' judgment, a video recording would assist in the investigation or prosecution of a crime or when a recording of an encounter would assist in documenting the incident for later investigation or review.
- (p) Any incident where the supervisor requests 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 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 an issue unless the circumstances no longer fit the criteria for recording.

DOCUMENTATION REQUIRED FOR FAILING TO ACTIVATE BODY WORN CAMERA OR MOBILE AUDIO VIDEO OR RECORDING THE DURATION OF THE CONTACT:

If an officer is unable or fails to activate the BWC or MAV when required, fails to record the entire contact, or interrupts the recording for any reason, the officer shall set forth the reasons why a recording was not made, was delayed, was interrupted, or was terminated in the comments field of the incident in the Computer Aided Dispatch (CAD) System, Daily Field Activity Report (DFAR), or the Watch Commander's Log.

EXCEPTIONS: Officers are not required to activate and record investigative or enforcement encounters with the public when:

- (a) A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational.
- (b) In the officer's or supervisor's reasonable belief, a recording would interfere with his/her ability to conduct an investigation, or may be inappropriate, because of the victim or witness' physical condition, emotional state, age, or other sensitive circumstances (e.g. a victim of rape, incest, or other forms of sexual assault).
- (c) Situations where recording would risk the safety of a confidential informant, citizen informant, or undercover officer.
- (d) In patient-care areas of a hospital, rape treatment center, or other healthcare facility unless an enforcement action is taken in these areas.

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.

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450.7.1 CESSATION OF RECORDING

Once activated, the MAV, BWC, or 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. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported, and all witnesses and victims have been interviewed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive or in other similar situations. 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).

450.7.2 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.

450.7.3 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.

Employees shall not activate their recorders for the purpose of recording another employee, except in the course of an official investigation, as appropriate.

450.8 UPLOADING/OFFLOADING OF RECORDINGS

All BWCs will automatically upload data once placed into their docking station located in the Los Angeles Port Police armory. MAV records will either automatically be uploaded to Evidence.com ("the cloud") once within range of the Los Angeles Port Police or a public/private WiFi network designated for such purpose.

All audio/video recordings from devices other than BWCs and/or MAVs that contain information of evidentiary value in a criminal case and/or actual or potential City, Department, or individual liability shall be noted via the assigned incident number and uploaded into the Los Angeles Port Police's network for storage or other locations as appropriate.

Any recording that requires an upload/offload per this policy, shall be uploaded/offloaded by the end of a member's shift, unless prior approval is obtained from a supervisor.

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450.9 PROHIBITED USE OF AUDIO VIDEO RECORDERS

Members are prohibited from using department-issued audio video, 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 shall 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.

Generally, BWC and recording devices should not be activated in any Los Angeles Port Police facility except for official purposes such as interviewing victims, witnesses, or suspects.

No BWC or recording devices shall be activated in private spaces such as locker rooms or restrooms without the express permission of the Chief of Police for official purposes only, or in the event of a criminal act in progress.

450.9.1 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).

450.10 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. Any report should document the existence of the recording and where it is stored or archived so that it can be retrieved if needed.

A member should transfer, tag, or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil, or administrative matters.
- (b) A complainant, victim, or witness has requested non-disclosure.
- (c) A complainant, victim, or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

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Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

450.11 RETENTION OF RECORDINGS

Recordings containing evidence that may be relevant to a criminal prosecution shall be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

Recordings of the following shall be retained for a minimum of five years per Los Angeles Harbor Department (LAHD) retention guidelines (City of Los Angeles Administrative Code § 12.3(b)):

- (a) Incident 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 Los Angeles Port Police.

All other non-evidentiary recordings shall be retained for a period consistent with the requirements of the records retention schedule of not less than two years (City of Los Angeles Administrative Code §12.3(b)).

Records or logs of access and deletion of recordings shall be retained permanently (Penal Code § 832.18).

450.11.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with policy manual § 810.

450.12 REPORT WRITING/DOCUMENTATION

Employees who upload/offload any audio/video recording should note the existence of the media in the official report (if a report is taken).

450.13 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see policy manual § 310 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.

SUPERVISOR RESPONSIBILITIES - AUDITING:

Supervisors shall:

- (a) Conduct regular random reviews of BWC and MAV recordings captured by their assigned officers and review the recordings to evaluate officer performance, to ensure the BWC or MAV is being used properly, and to select incidents that may have value

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for training purposes. Supervisors/managers shall not review recordings for the sole purpose of searching for violations of Department policy not related to a specific complaint or incident not associated with the assessment of employee performance as indicated elsewhere in this policy. Supervisors shall tag any video reviewed with the appropriate code in the BWC/MAV database, as determined by the System Coordinator.

- (b) Ensure officers under their supervision are categorizing video with proper event tags and event notes.
- (c) Supervisors who discover minor misconduct such as, but not limited to, the use of profanity or disrespect during the review shall counsel the involved employees. However, supervisors who discover serious misconduct, such as, but not limited to, criminal or constitutional violations or acts of moral turpitude shall cause the initiation of a personnel complaint.
- (d) The operation of MAV and BWC systems by probationary employees should be reviewed and assessed by the Field Training Officer or Officer-in-Charge no less than biweekly.

COMMANDING OFFICER'S RESPONSIBILITIES:

Division Commanders shall periodically review supervisor's compliance with the audit policy through the BWC/MAV database which captures records of video access and review. Such review and results shall be reported to the Commanding Officer of the Operations Group.

450.13.1 OTHER AUTHORIZED VIEWINGS

BWC or MAV recordings may also be reviewed:

- (a) Upon request and with permission of the Chief of Police, by members of Los Angeles Harbor Department (LAHD) Board of Harbor Commissioners, and LAHD Executive Director about a pending or anticipated claim or litigation, or a critical incident including a use of deadly force or force that resulted in serious bodily injury.
- (b) Upon request and with permission of the Chief of Police or the authorized designee, by members of the Los Angeles County District Attorney's Office, or other third party law enforcement agencies about a pending criminal or administrative investigation.
- (c) Upon request with permission of the Chief of Police by members of the City Attorney's Office, or Risk Management Division about a pending or anticipated claim or litigation.
- (d) 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.
- (e) When conducting a personnel investigation, participating in another inquiry or administrative investigation, a criminal or other official investigation, or when otherwise authorized as provided for in § 450.13.
- (f) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (g) By media personnel with permission of the Chief of Police or the authorized designee.

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- (h) In compliance with a public records request, if permitted, and in accordance with policy manual § 810.
- (i) By the officer(s) attorney or representation in an Officer Involved Incident.
- (j) Members may review their recordings prior to any court ordered appearance.
- (k) For training purposes.

Although prior permission need not be obtained from any officer(s) shown on a recording, supervisors may use recordings obtained pursuant to this policy for training purposes with the prior notification of the involved officer(s) and with prior approval of the Chief of Police or the authorized designee. If the officer(s) objects to the showing of the recording, their objection will be submitted to Command Staff to determine if the training value outweighs the officer(s) objection for not showing the recording. The use of the recordings for training must be illustrative of positive principles of policing or demonstrate proper handling of unusual incidents. Supervisors shall not use recordings that are the subject of litigation or personnel actions, or any that are humiliating to employees, unnecessarily gruesome, or otherwise offensive.

All recordings should be reviewed by the Custodian of Records prior to public release (see policy manual § 810). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

COMMANDING OFFICER'S RESPONSIBILITIES:

The Commanding Officer must confirm that the particular video recording that is requested is to be used for the training is not the subject of or relevant to:

- (a) Any on-going administrative investigation, pending personnel complaint, administrative appeal, grievance, arbitration, criminal investigation against an officer, or civil litigation against the Department.
- (b) A pending adjudication regarding a use of force, pursuit, or traffic collision.

Note: If one of these actions is initiated and pending after approval to use the BWC footage for Department training purposes, the Department entity that learns of the new circumstances must immediately notify Professional Development and Training Division to determine, in consultation with appropriate Department entities, whether the footage should continue to be used for training purposes.

450.14 REVIEW OF RECORDINGS IN USE OF DEADLY FORCE INCIDENTS

If an officer is involved in a use of deadly force incident or use of force that results in Serious Bodily Injury, the officer shall not review any recordings until authorized by the Command Duty Officer, in conjunction with the investigation by the Los Angeles Police Department Force Investigation Division. Once authorized, the officer shall review the recording. An officer may have an employee representative present during the review of the recording. Additionally, an officer may elect to review the recordings without an investigator or supervisor present. The separating and monitoring of officers involved in a deadly force incident shall be maintained during the review of recordings and review shall not occur jointly among involved employees.

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The supervisor that responds to the scene of the deadly force incident shall ensure the recording has stopped and maintain custody of the recording device or media until it is transferred to investigators or until given other direction by the Command Duty Officer. Supervisors shall not view recordings unless directed to do so by investigators or the Command Duty Officer.

450.15 POLICY ADMINISTRATION

Adherence to this policy is under the chain of command of the Operations Group or their authorized designee.