

## **Use of Audio/Video Recorders**

### **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.

This policy does not apply to surreptitious interception of electronic communications for lawful authorized investigative purposes or to mobile audio video recordings.

### **450.2 POLICY**

The Menlo Park 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.

### **450.3 PRIVACY**

All recordings made by personnel acting in their official capacity as members of this department shall remain the property of the Department and should not be considered private, regardless of whether those recordings were made with department-issued or personally owned recorders.

### **450.4 MEMBER RESPONSIBILITIES**

Prior to going into service, each uniformed member will 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. Uniformed members shall wear the recorders in such a way as to have easy access to the function buttons and in a manner that renders the recorder secure.

Any member assigned to a non-uniformed position shall carry an approved portable recorder. The recorder shall be carried in a way that renders the recorder secure with the ability to record any contact with a citizen.

At the beginning of each shift, the member shall test the recorder to assure it is working properly. This can be accomplished by making a test recording that can then be deleted.

### **450.5 ACTIVATION OF THE AUDIO RECORDER**

Members shall activate the recorder during all on duty contacts with citizens other than a contact with another member, without their knowledge.

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

#### **450.5.1 SURREPTITIOUS USE OF THE AUDIO RECORDER**

Members of the 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 (Penal Code § 633).

# Menlo Park Police Department

## Policy Manual

### *Use of Audio/Video Recorders*

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Members shall not surreptitiously record another department member without a court order or unless lawfully authorized by the Chief of Police or the authorized designee.

#### **450.5.2 SURREPTITIOUS USE OF AUDIO RECORDER DURING INVESTIGATIONS OF PERSONNEL COMPLAINTS**

Members are prohibited from surreptitiously recording any conversation in which a person is making a personnel complaint or allegation of such. In these situations, the member taking the complaint shall advise the complainant that the conversation is being recorded. If the complainant refuses to be recorded, the member shall discontinue recording, and will indicate this fact in the documentation created regarding the complaint or allegation. It is recommended that a witness member be utilized in cases which a complainant refuses to be recorded.

#### **450.6 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.

Recordings shall not be used by any member for the purpose of embarrassment or ridicule.

Any member who may have questions regarding the application of this policy is encouraged to seek clarification from supervisory personnel.

#### **450.7 RETENTION OF RECORDINGS**

Members shall upload all digital recorded files in accordance with current procedures for storing digital files, at the end of their shift and anytime the storage capacity is nearing its limit.

Any time a member uploads a digital file that will or may be used as evidence in a criminal or non-criminal case, the member shall mark the file with all pertinent information required by the department's digital recording software, and will cause that file to be marked as "evidence" in the system.

##### **450.7.1 RETENTION REQUIREMENTS**

All recordings shall 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.

#### **450.8 RETENTION OF RECORDS**

Citizen contact recordings shall be retained for a minimum of (2.5) years. All recordings which are classified as evidence will be retained for a period of time determined by applicable laws and the City of Menlo Park's retention guidelines.

# Menlo Park Police Department

## Policy Manual

### *Use of Audio/Video Recorders*

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#### **450.9 RELEASE OF RECORDINGS**

Recordings made using portable recording devices pursuant to this policy are department records and may only be released as provided in the Release of Records and Information Policy or for other authorized legitimate department business purposes.

#### **450.10 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource. However, 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, reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) 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.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) In compliance with a public records request, if permitted, and in accordance with the Release of Records and Information Policy.