



EDWIN M. LEE
MAYOR

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO
HEADQUARTERS
1245 3rd STREET
SAN FRANCISCO, CALIFORNIA 94158



GREGORY P. SUHR
CHIEF OF POLICE

San Francisco Police Department Agenda
3rd Working Group Meeting
Body Camera Policy
June 30, 2015
12:30 p.m.

Roll Call

Item 1. Adoption of Minutes from June 16, 2015 Meeting (ACTION ITEM)

Item 2. Discussion of Follow-up Items from June 16, 2015 Meeting

Item 3. Discussion of Working Document

Item 4. Future Agenda Items

Item 5. Future Meeting Dates

Item 6. General Public Comment

(The public is now welcome to address the working group regarding items that are within the subject matter jurisdiction of the working group. Speakers shall address their remarks to the working group as a whole and not to individual members of the working group. Working group members are not required to respond to questions by the public but may provide a brief response. Individual working group members should refrain, however, from entering into any debates or discussion with speakers during public comment).

Item 7. Adjournment (ACTION ITEM)

SUPPORTING DOCUMENTATION FOR BODY CAMERA POLICY WORKING GROUP AGENDA ITEMS THAT ARE NOT CONFIDENTIAL AND DOCUMENTATION THAT HAS BEEN DISTRIBUTED TO THE WORKING GROUP AFTER DISTRIBUTION OF THE AGENDA PACKETS ARE AVAILABLE FOR REVIEW AT THE POLICE COMMISSION OFFICE, 1245 3RD STREET, 6TH FLOOR, SAN FRANCISCO, CA 94158, DURING NORMAL BUSINESS HOURS.

END OF AGENDA

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and



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that City operations are open to the people's review. For information on your rights under the Sunshine Ordinance (Chapters 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, please contact: Sunshine Ordinance Task Force Administrator in Room 244 at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683. (Office) 415-554-7724; (Fax) 415-554-7854; E-mail: SOTF@sfgov.org.

Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.sfgov.org. Copies of explanatory documents are available to the public online at <http://www.sfbos.org/sunshine> or, upon request to the Commission Secretary, at the above address or phone number.

LANGUAGE ACCESS

Per the Language Access Ordinance (Chapter 91 of the San Francisco Administrative Code), Chinese, Spanish and or Filipino (Tagalog) interpreters will be available upon requests. Meeting Minutes may be translated, if requested, after they have been adopted by the Body Camera Policy Working Group. Assistance in additional languages may be honored whenever possible. To request assistance with these services please contact the Police Commission at (voice) 415.837.7070 or (TTY) 415.575.5827 at least 48 hours in advance of the hearing. Late requests will be honored if possible.

DISABILITY ACCESS

Body Camera Policy Working Group meetings are held in Room 400 at the Police Headquarters Building, 1245 -3rd Street, 1st Floor in San Francisco. The Public Safety Building is accessible to persons using wheelchairs and other assistive mobility devices. Ramps are available at the 3rd Street entrance. The closest accessible BART station is Powell Street Station. For information about SFMTA service, please call 311.

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San Francisco Police Department
 Body Camera Policy Working Group
 June 16, 2015 Meeting Minutes

The Body Camera Policy Working Group met at the Public Safety Building (PSB), 1245 3rd Street, Room 1025, San Francisco at 12:47 pm.

PRESENT: Teresa Caffese, Brian Kneuger, Yulanda Williams (arrived at 1:47 pm), Marquita Booth, Laura Knight, Joyce Hicks, Johnathan Yank, Cheryl Evans-Davis (arrived at 12:50 pm), Martin Gran, Rebecca Young, Deputy Chief Mikail Ali, Commander Robert Moser – quorum.

Also present was Commissioner Victor Hwang

Introductions:

Each member made brief introduction.

Item 1: Adoption of Minutes from June 2, 2015 meeting:

Ms. Hicks made a motion to adopt the minutes; second by Ms. Cafesse
 All voted in favor; motion passes.

Item 2: Discussion of Follow-up items from June 2, 2015 meeting:

Discussed new language for definition of PDRD; members brought up additional changes, and Officer Booth was asked to provide the language to Commander Moser.

Also discussed difference between the terms “person,” “peace officer,” and “member”. Discussion included that in this case the word is used in the definition’s section, not in the authorized use section, which would apply to SFPD sworn members. Discussion continued stating that there could be confusion that any person could use a PDRD. This item will need to be discussed more for consensus.

Discussion that **parenthetical references should be to “including disciplinary cases.”**

Discussion about creating a separate DEFINITION section.

Item 3: Discussion of Working Document:

Section III: Procedures:

1. Test the equipment: discussion included definition of what testing includes; explained that testing includes turning on, making sure it is charged, verifying the PDRD is working, etc. – all will be included in the training component.
2. Defect in equipment: discussion included creating a form to describe the defect; the form gets sent to the Captain; then sent to the Unit responsible for issuing/repairing equipment; this is for accountability at all levels.
3. No comment



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4. Discussion about reporting defect to OIC, but supervisor responsible for facilitating replacement; discussion about each member assigned his/her own PDRD and station has 10% of inventory in reserve for replacement as soon as practical.
5. Discussion about mounting positions along with the names of the mounting terms will be addressed in training based on the type of equipment the Department purchases. All training will be included in a training manual.

Section III, Consent:

Discussion about softening the language; the public will be reviewing and it may seem dismissive of public's desires when requesting the members' deactivate the PDRD. Suggested language: "The policy does not require members to activate or to deactivate a recording encounter at the request of a citizen." Remove the current "demand" language. And add a reference (see sections below on activation and deactivation). Perhaps a reference to the Supreme Court case that deals with consent not required.

Discussion continued regarding public perception that they will have the right to request member deactivate, and merely putting this statement in the policy will not change public opinion; there will have to be a public education campaign on this policy for community understanding. This does not just include relying of community groups to pass the message on to members of their community; it includes the police leading discussions at community meetings, FAQ documents, Department's website, school events and Police Commission meetings. Discussion continued about the importance of outreach and engaging from COPS/DOJ report before rollout; includes using social media. Community education and engagement needs to include an explanation of what the cameras will be used for and how everyone can benefit from the use of cameras.

Also recommendation to use "activate" and "deactivate" consistently throughout document; not change from initiate and terminate.

Section III, Authorized Use:

Discussion about changing language in the introductory sentence to state that "all members equipped with a PDRD shall, prior to the encounter, activate the PDRD equipment. As currently written there is too much discretion. Comment that this change in language could be problematic in developing events; the language could be confusing to officers. Discussion included that at least one type of equipment captures and stores the immediate 30 seconds (without audio) of video once the PDRD is turned on.

1. No comment
2. Discussion about whether this section should include exemption of interviews with victims of sexual assault and child abuse; victim advocates could be concerned; can add as a recommendation, add language that states: "except as noted in Section III, D."
3. No comment
4. No comment



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5. No comment
6. Discussion involved adding "pat search" after cursory search.
7. No comment
8. Discussion about changing language to something like "deter criminal activity or uncooperative behavior during police/public interaction." Sgt. Williams was asked to draft updated language for the group to review.
9. Discussion included that the previous eight items are "shall," but this item is "may." Perhaps this item should not be included in this list. Discussion about this allowing the officer to use PDRD in cases that the Department cannot anticipate at this time. One opinion is to carve out #9 as a separate sentence not listed under Authorized Uses. Another opinion is that #9 states that once an officer comes to believe something would be used for evidentiary purposes, then the officer shall record. By separating it out, it makes the use of PDRD optional, even if they come to believe that the recording would be valuable for evidentiary purposes. Discussion involved the "reasonableness" at the time of the incident; difficult to see what may be needed based on information collected later. Need to recognize that 1-8 may not be an exhaustive list; and we have a statement that officers shall not use the PDRD for non-law enforcement purposes. Members need to the flexibility to use the PDRD in situations not listed. Discussion included that the word "believe" is the issue. Comment was made that this section could be difficult to enforce for disciplinary purposes.

Another suggestion for language in #9: "in any situation where the recording would be valuable for evidentiary purposes."

Members shall only activate their PDRDs in articulable situations that serve a law enforcement purpose.

Discussion continued about the community's feeling about the discretion in using vs. not using. Discussion also involved the safety of a community member who initially makes a statement on a PDRD, but then does not want to have that PDRD shown for their safety. This point is addressed in the next section.

Suggested language: join language against using PDRDs in non-law enforcement situations with item #9.

Additional suggestions for the ending sentence: Members shall only activate the PDRD for law enforcement purposes.

Based on Commissioner Hwang's public comment about the need for discussion regarding recording during an officer's entire shift vs. recording in specific circumstances. Discussion involved privacy issues for officers, review of video, video storage, recording of sexual victims, etc. Comment made that purpose of the policy is to ensure effective and rigorous use and adherence. Continuous recording does not serve any of the purposes. Questions asked if there are any law enforcement agencies that have policies that mandate continuous recording; none



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were mentioned. There are advocates for continuous recording, but logistically if it may be impractical. ACLU's statement on continuous recording: as a goal continuous recording, but representative from ACLU was not present at the meeting. ACLU also states in their report that it is "vital that any deployment of these cameras be accompanied by good privacy policies so that the benefits of the technology are not outweighed by invasions of privacy. Most privacy protections will have to come from privacy restrictions on subsequent retention and use." From this updated report the ACLU does not recommend continuous recording. Agreement with the working group.

Discussion about the formatting of the document and combining and rearranging the sections. Commander Moser requested that Officer Booth and Lt. Knight draft the updated language she is proposing.

Section III, Shall not intentionally use PDRD to record:

Discussion about changing language to "members shall not activate the PDRD to record:" about the word "intentionally." Should be left out, either record or not. Discussion about member discovers after the recording starts that the member should not have recorded. Situations arise that are unintentional recording. Young will attempt to think about another way to word the introductory statement.

Another suggestion for the introductory sentence: "Members shall not intentionally activate or, if already activated, shall deactivate the PDRD when encountering:"

Discussion about ALCU recommending notifying the person who is being recorded that the officer is recording. Discussion about timing, training, and officer safety issues.

1. No comment
2. No comment
3. No comment
4. Address separately because is shall not; discussion about a complete prohibition. Discussion about removing this item; meant to be a reminder to officers because of all the technology available.
5. Address separately because is shall not; further discussion of DGO 8.10 – intentionally surveilling First Amendment Activities. Discussion about defining DGO 8.10 restricted activities that is being described here. Suggested language: members shall not activate the PDRD in a manner that is specifically prohibited by DGO 8.10. Request that members come back with suggested language.

Discussion about the exigent circumstances clause. OCC voiced concerns about using this as a defense, but withdrew concern. Others argues that examples provided were good examples of times where there are exigent circumstances. There is a requirement to document any deviation.

Section III, Permissible Termination of Recordings:



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Discussion about why this section is permissible. Discussion about why the officers should be allowed to stop recording. Discussion about medical issues, officer safety, privacy issues.

Discussion about requirement to document when start and stop the PDRD that are contrary to policy.

Discussion about #2 not being permissive, but the introductory sentence makes it permissive. Need to change that language.

Discussion about rethinking #4. (regarding hospital recordings). May be needed for dying declarations or cases when the suspect is being interviewed by the jail nurse. Discussion about HIPPA violations. Language from LAPD policy about when to record in hospital situation. Discussion that this item needs more work. Sgt. Williams to send LAPD policy to Commander Moser.

Discussion about #5 being very long and may need to be worked on to simplify.

Item 4: Future Agenda Items:

- Discuss the working document from where the group stopped today.
- Discussion about rewording language in Section III, C.9 (other situations when the assigned member believes that a recording would be valuable for evidentiary purposes), along with the final sentence of the section.
- Need further discussion about Section III, D.5 (First Amendment Activities and how they relate to DGO 8.10)
- Further discussion needed about Section III, E. 4 (recording in hospitals).
- Further discussion needed about Section III, E. 5 (permissible to not record when concerned for witness or community safety). Item is lengthy and incorporates many ideas.
- Further discussion about the language being used in the document; while this is for the officer, the public will be looking at it and there may be areas that need more explanation to assist the public in understanding the policy.
- Next section to be discussed involves officers reviewing PDRD prior to completing incident report; members of the working group requested that someone provide information of why it would be important for officers to review prior to completing the incident report, as there are competing views on this issue. DC Ali also asked that if anyone had documents about this issue to share with Commander Moser, and he will send out to the group.

Item 5: Future Meeting Dates:

Next meeting on Tuesday, June 30, 2015 at 12:30 pm at 1245 3rd Street, San Francisco.



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Item 6: General Public Comment:

Commissioner Hwang asked that the working group discuss whether there should be officer discretion vs. whether the camera should be on the entire shift. He is not advocating either way, but instead wants to ensure there is discussion about this item, so the Police Commission can consider both sides of the issue.

Item 7: Adjournment:

Ms. Hick made a motion to adjourn the meeting; second by Sgt. Williams. All voted in favor; motion passes.

Moser, Bob (POL)

From: Williams, Yulanda (POL)
Sent: Wednesday, June 24, 2015 12:36 AM
To: Moser, Bob (POL)
Subject: Re: Next Body Camera Working Group Meeting (Afterthought/ Additional Suggestion)

Commander Moser,

I sent this recommendation to you yesterday:

Policy regarding Viewing of Body Worn Video Recordings By Officers, this one appears to be very straight forward. **The accuracy of police reports, officers' statements and other official documentation is essential for the proper administration of justice and complying with the Department's obligation to maintain full and complete records of enforcement an investigative activities. Investigators, supervisors, prosecutors and other officials rely on complete and accurate records to perform their essential duties and responsibilities. Officers are therefore required to review PDRD recordings on their assigned device or authorized computer prior to documenting an incident, arrest, search, interview, use of force or other enforcement or investigative activity to ensure that their reports, statements and documentation are accurate and complete.**

Additionally each police report prepared by officers who review the PDRD should contain the following statement prior to the officer preparing their typewritten Narrative: "Prior to writing police report# _____ I reviewed the PDRD video footage in the presence of Sgt. _____ and/or Off. _____".

Another suggestion would be in the event that there are possible question(s) surrounding police officer(s) misconduct deemed by previously known facts that may lead to a potential investigation by a higher ranking officer the officer(s) with this possible question about heir conduct shall not be allowed to view the PDRD prior to preparing the narration of his/her police report.

Sgt. Yulanda D.A. Williams

Patrol Sergeant

Richmond Police Station

461 6th Avenue

San Francisco, CA 94118

Phone: (415) 666-8000

ax: (415) 666-8060

Cell: (415) 254-9846

From: Moser, Bob (POL)
Sent: Monday, June 22, 2015 1:09 PM
To: Williams, Yulanda (POL)
Subject: RE: Next Body Camera Working Group Meeting

Thanks Yulanda,

We will discuss your suggestions at our next meeting.

Commander Robert Moser
San Francisco Police Department
Metro Division
1245 3rd St.
San Francisco, Ca 94158
415-575-7142

From: Williams, Yulanda (POL)
Sent: Saturday, June 20, 2015 9:42 PM
To: Moser, Bob (POL)
Subject: Re: Next Body Camera Working Group Meeting

Commander Moser,

Here are several suggestions/revisions I would like to offer from our previous meeting (6/16/2015):

Under II. Policy C3 Suggestion to include: **10. Code 3 responses (including vehicle pursuits) regardless to whether the vehicle is equipped with In-Car Video equipment.**

11. Use of Force Incident (when/if possible)

12. Foot Pursuits

13. Witness/Victim Interviews (except as specified

in D1 and D2)

Under II. Policy C8. Suggestion to replace with this language: **Deter criminal activity and uncooperative behavior during police-public interactions.**

also,

Under II Policy E. Permissible Termination of Recordings

Suggestion to include this language in 4.: **In patient-care areas of a hospital, rape treatment center, or other healthcare facility unless enforcement action is taken in these areas.**

Under II Policy E. Permissible Termination of Recordings

Suggestion to include this language in 5.: **When gathering intelligence from witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational.**

Suggestion to revise to this language adding a number 6.: **When gathering intelligence from a witness(es) or community member(s) who may be hesitant to report statements recorded by PDRD. (Based upon fear of retaliation, information is deemed sensitive, and/or privacy concerns.).**

Also, I just reviewed some other agencies policy regarding Viewing of Body Worn Video Recordings By Officers, this one appears to be very straight forward. **The accuracy of police reports, officers statements and other official documentation is essential for the proper administration of justice and complying with the Department's obligation to maintain full and complete records of enforcement an investigative activities. Investigators, supervisors, prosecutors and other officials rely on complete and accurate records to perform their essential duties and responsibilities. Officers are therefore required to review PDRD recordings on their assigned device or authorized computer prior to documenting an incident, arrest, search, interview, use of force or other enforcement or investigative activity to ensure that their reports, statements and documentation are accurate and complete.**

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From: Moser, Bob (POL)

Sent: Monday, June 15, 2015 3:39 PM

To: Moser, Bob (POL)

Subject: Next Body Camera Working Group Meeting

Hello all,

Our next meeting is scheduled for tomorrow at 12:30 PM at the Public Safety Building located at 1245 3rd Street. I have attached the minutes from our last meeting along with our agenda and the working draft, which has been revised based upon our last meeting. Please review these documents and be prepared to discuss them tomorrow. I look forward to seeing you all.

With Regards,

Commander Robert Moser

San Francisco Police Department

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Also, I just reviewed some other agencies policy regarding Viewing of Body Worn Video Recordings By Officers, this one appears to be very straight forward. **The accuracy of police reports, officers statements and other official documentation is essential for the proper administration of justice and complying with the Department's obligation to maintain full and complete records of enforcement an investigative activities. Investigators, supervisors, prosecutors and other officials rely on complete and accurate records to perform their essential duties and responsibilities. Officers are therefore required to review PDRD recordings on their assigned device or authorized computer prior to documenting an incident, arrest, search, interview, use of force or other enforcement or investigative activity to ensure that their reports, statements and documentation are accurate and complete.**

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Digital Recording Devices

DRAFT

06/25/15

I. Purpose:

The use of Portable Digital Recording Devices (PDRDs) is an effective tool a law enforcement agency can use to demonstrate its commitment to transparency, ensure the accountability of its members, increase the public's trust in officers, and protect its members from unjustified complaints of misconduct. As such, the San Francisco Police Department is committed to establishing a PDRD program that reinforces its responsibility to protecting public and officer safety. The purpose of this Order is to establish the policies and procedures governing that program and ensure effective and rigorous use and adherence.

Commented [S1]: Discuss with group about changing terminology.

Commented [rk2]: Goals taken from PERF/US DOJ Report: Implementing a Body-Worn Camera Program

Commented [S3]: Suggested by the Public Defenders' Office

The PDRD is a small audio-video recorder with the singular purpose of recording audio/visual files, specifically designed to be mounted on a person. ~~If~~ The PDRD is designed to record audio and video activity to preserve evidence for use in criminal and administrative investigations (including disciplinary cases), civil litigation, officer performance evaluations, administrative inquires and disciplinary cases and to review police procedures and tactics, as appropriate.

Commented [S4]: Public Defenders Office suggestion is to use the word "peace officer."

II. Policy:

- A. **USE OF EQUIPMENT.** The Department-issued PDRD is authorized for use in the course and scope of official police duties as set forth in this Order. Only members authorized by the Chief of Police and trained in the use of PDRDs are allowed to wear Department-issued PDRDs. The use of non-Department issued personally owned PDRDs while on-duty is prohibited.
- B. **TRAINING.** The Department will train all members assigned PDRDs prior to deployment. Members assigned PDRDs shall use the devices in accordance with their training and the provisions outlined in this order.
- C. **PROGRAM ADMINISTRATOR.** The Risk Management Office (RMO) is the PDRD's program administrator. The duties of the RMO include, but are not limited to:
1. Tracking and maintaining PDRD inventory
 2. Issuing and replacing PDRDs to authorized members
 3. Granting security access to the computer server
 4. Monitoring retention timeframes as required by policy and law
 5. Complying with Public Record Act requests and all other court record requests
 6. Conducting periodic and random audits of PDRD equipment and the computer server

III. Procedures:

A. Set Up and Maintenance.

Members shall be responsible for the proper care and use of their assigned PDRD and associated equipment.

1. Members shall test the equipment at the beginning of their shift and prior to deploying the PDRD equipment to ensure it is working properly and is fully charged.
2. ~~If the member discovers a defect or that the equipment is malfunctioning, the member shall cease its use and shall promptly report the problem to his/her Platoon Commander or Officer in Charge.~~
3. If the member discovers that the PDRD is lost or stolen, the member shall submit a memorandum through the chain of command memorializing the circumstances, in accordance with Department General Order 2.01, Rule 24, Loss or Damage to Department Property.
4. ~~If the member's PDRD is damaged, defective, lost or stolen, the member's supervisor shall facilitate a replacement PDRD as soon as practical.~~
5. Members shall attach the PDRD in such a way to provide an unobstructed view of officer/citizen contacts. The PDRDs shall be considered mounted correctly if it is mounted in one of the Department-approved mounting positions.

Commented [rk5]: There was discussion about developing a form to report the malfunction/defect.

Commented [rk6]: Oakland PD

Commented [rk7]: Oakland PD

B. Consent Not Required.

Private persons do not have an expectation of privacy when dealing with police officers performing their normal scope of lawful duties. This policy does not require a member to activate or deactivate a PDRD upon the request of a citizen. Members are not required to initiate or cease recording an event, situation or circumstance solely at the demand of a citizen.

Commented [S8]: Looking for the Supreme Court case to cite.

C. Authorized Use.

All members equipped with a PDRD shall activate their PDRD equipment to record in the following circumstances:

Commented [rk9]: Oakland PD

1. Detentions and arrests
2. Consensual encounters where the member suspects that the citizen may be involved in criminal activity as a suspect, victim or witness, except as noted in Section III D.
3. 5150 evaluations
4. Traffic and pedestrian stops
5. When serving a search or arrest warrant
6. Conducting any of the following searches on one's person and/or property:
 - a. Incident to an arrest
 - b. ~~Cursory~~
 - c. Probable cause
 - d. Probation/parole
 - e. Consent
 - f. Vehicles

Commented [S10]: Suggestion from Public Defenders Office to add the term "pat search in parenthesis.

7. Transportation of arrestees and detainees
8. During any citizen encounter that becomes hostile
9. ~~In any situation when other situations when the assigned member believes that the recording would be valuable for evidentiary purposes~~
10. ~~Only in situations that serve a law enforcement purpose.~~

Members shall not activate their PDRDs in situations that serve no law enforcement purpose.

Commented [rk11]: Suggested by Officer Booth

Commented [S12]: Group suggestion after lengthy discussion.

D. Members shall not intentionally use activate, or if already activated, shall deactivate the PDRDs to record when encountering:

1. Sexual assault and child abuse victims during a preliminary investigation
2. Situations that could compromise the identity of confidential informants and undercover operatives
3. Strip searches

Commented [S13]: As suggested by DC Ali.

Commented [rk14]: Additional language was going to be developed by a member of the group, but to date, not received

However, a member may record in these circumstances if the member can articulate an exigent circumstance that required deviation from the normal rule in these situations.

4. ~~Surreptitious recording of Department members as defined in DGO 2.01, Rule 56, Surreptitious Recordings~~
5. ~~First Amendment Activities as defined in DGO 8.10, Guidelines for First Amendment Activities~~

Members shall not activate the PDRD in a manner that is specifically prohibited by DGO 2.01. General Rules of Conduct, Rule 56 – Surreptitious Recordings - XXX, and DGO 8.10. Guidelines for First Amendment Activities XXX.

Commented [rk15]: DGO 2.01

Commented [rk16]: DGO 8.10

Commented [S17]: As suggested by Commander Moser.

~~However, a member may record in these circumstances if the member can articulate an exigent circumstance that required deviation from the normal rule in these situations:~~

Commented [rk18]: This was moved above the prohibition on surreptitious recording and First Amendment Activities – otherwise there could be a misunderstanding that in exigent circumstances a member could record another member surreptitiously or during First Amendment Activities.

E. Permissible Terminations of Recordings

Once the PDRD has been activated, members shall continue using the PDRD until their involvement in the event has concluded to ensure the integrity of the recording, unless the contact moves into an area restricted by this policy. Members may terminate deactivate the PDRD a recording in the following circumstances:

1. ~~When discussing sensitive factual or law enforcement information away from the citizen~~
2. ~~After receiving an order from a higher ranking member~~
3. ~~After arriving safely at the booking facility~~
4. ~~When recording at a hospital would compromise patient confidentiality~~
5. ~~When gathering intelligence information from witnesses or community members, and there is concern that a PDRD would inhibit intelligence information gathering efforts, as some witnesses and community members may be hesitant to report information if they know their statement will be recorded. They may fear retaliation, worry about their own privacy, or not feel comfortable sharing~~

Commented [S19]: Further discussion needed on whether to remove from policy or put somewhere else.

Commented [rk20]: Oakland PD

Commented [rk21]: Sgt. Williams send additional proposed language to Commander Moser. For discussion.

~~sensitive information on camera. Officers should have the discretion to keep their cameras turned off in these situations.~~

Commented [rk22]: PERF

6.5.

If a member ~~terminates~~deactivates the PDRD prior to the conclusion of an event, the member shall document the reasons for terminating the recording in an incident report, written statement or CAD entry or a memorandum. If the member reactivates starts the PDRD after turning the equipment off, the member shall document the reason for restarting the recording in the incident report, written statement or CAD or a memorandum.

The accuracy of police reports, officer statements and other official documentation is essential for the proper administration of justice and complying with the Department's obligation to maintain full and complete records of enforcement and investigative activities; investigators, supervisors, prosecutors and other officials rely on complete and accurate records to perform their essential duties and responsibilities. Officers are therefore required to review body worn video recordings on their assigned device or authorized computer prior to documenting an incident, arrest, search, interview, use of force, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.

Commented [rk23]: LAPD

F. Storage and Use of Recordings.

1. A member who has recorded an event shall upload the footage prior to the end of his or her watch unless instructed to do so sooner by an assigned investigator or a superior officer
2. When uploading recordings to the computer server, members shall identify each PDRD recording with the incident report number, CAD number or citation number and the appropriate incident category title to ensure the recording is accurately retained and to comply with local, state and federal laws.
3. Recordings may be reviewed by a member for any legitimate investigatory purpose, including but not limited to, preparing an incident report, preparing statements, or providing testimony, except when the member is the subject of the investigation in any of the following that were captured by the PDRD:
 - a. An officer-involved shooting or in-custody death,
 - b. A member is the subject of a criminal investigation, an administrative investigation or an immediate investigation.
 - c. At the discretion of the Chief of Police or their designee.

For the above listed circumstances, the Department's administrative or criminal investigator will coordinate with the member or the member's legal representative to arrange the viewing of the PDRD recording prior to the member's interview.

Commented [rk24]: Similar to LAPD

Note: A member's recollection and perception of an incident may vary from what he/she may later recall and/or from what a recording captures. A review of a recording is intended to aid in recollection. However, members should remember to focus on their own perspective and specific recollection of the event.

4. Members, with no legitimate law enforcement purpose shall not access recordings.

G. Duplication and Distribution.

1. Departmental Requests

The officer-in-charge or commanding officer of the unit assigned the investigation recorded by the PDRD, or the officer-in-charge or commanding officer of the Legal Division shall have the authority to permit the duplication and distribution of the PDRD files. Other than routine discovery request stemming from the rebooking process or court proceedings, any member requesting to duplicate or distribute a PDRD recording shall obtain prior approval from the officer-in-charge or the commanding officer of the unit assigned the investigation, or the officer-in-charge or commanding officer of the Legal Division. Duplication and distribution of PDRD recordings are limited to those who have a "need to know" and a "right to know" and are for law enforcement purposes only.

2. Non-Departmental Requests

- a. Members shall accept and process public records requests in accordance with the provisions of federal, state and local statutes and Department policy:
- b. Members shall provide discovery requests related to the rebooking process or other court proceedings by transferring the PDRD recording to the requesting agency by using the computer server where the PDRD recording is stored.

Commented [rk25]: Oakland PD

H. Retention.

The Department shall retain all PDRD recordings for a minimum of one year in adherence with local, state, federal statutes and Department policy.

A PDRD recording may be saved for a longer or indefinite period of time as part of a specific case if deemed relevant to a criminal, civil or administrative matter.

Except for members of the RMO, a member may not delete any PDRD recording without prior authorization. The member seeking to delete a recording shall submit a memorandum to his/her Commanding Officer requesting to delete footage from a PDRD file and shall make an entry of the request in the appropriate case file, if applicable.

The Commanding Officer shall then forward the memorandum to the Commanding Officer of the Risk Management Office for evaluation and appropriate action.

Members of the RMO are authorized to delete PDRD recordings in accordance with the Department's established retention policies on PDRD recordings and when directed by the Commanding Officer of the Risk Management Division.

I. Accidental or Unintentional Recordings.

If a PDRD accidentally or inadvertently captures an unintended recording, the member may submit a memorandum through the chain of command specifying the date, time, location and a summary of the unintentionally recorded event. This memorandum shall be forwarded to the Commanding Officer of the Risk Management Office for evaluation and appropriate action.

J. Documentation.

If a member terminates a PDRD recording prior to the conclusion of an event, the member shall document the reason(s) for terminating the recording in CAD, the incident report, a written statement or a memorandum.

If a member restarts the PDRD after turning the equipment off, the member shall document the reason(s) for restarting the recording in CAD, the incident report, a written statement or a memorandum.

Officers submitting an incident report or completing a written statement shall indicate whether the PDRD was activated and whether it captured footage related to the incident.

If a member determines that officer or public safety would be compromised if a PDRD were activated during an incident requiring its use, the member shall document in CAD, an incident report, a written statement or a memorandum the reasons for not using the PDRD.

K. Discovery of Potential Misconduct during Authorized Review:

Commented [rk26]: From San Diego PD

Members reviewing recordings should remain focused on the incident captured in the PDRD and should review only those recordings relevant to the investigative scope. If potential misconduct is discovered during any review of the PDRD, a superior officer shall conduct an administrative investigation pursuant to Department General Order 1.06, Duties of Superior Officers, Section I.A.4. Nothing in this procedure prohibits addressing Department policy violations.

References:

Los Angeles Police Department's Body Camera Policy
Oakland Police Department's Body Camera Policy
Bart Police Department's Body Camera Policy

San Diego Police Department's Body Camera Policy
PERF/US DOJ Report: Implementing a Body-Worn Camera Program

DGO 1.06, Duties of Superior Officers

**DGO 2.01, Rules 23 and 24, Use of Department Property and Loss or Damage to
Department Property**

DGO 2.01, Rule 56, Surreptitious Recordings

DGO 8.10, Guidelines for First Amendment Activities

