

## Body Worn Camera Policy

### 449.1 PURPOSE

A. To provide policy and procedures for use of the Portable Video Recording System (PVRS), including both audio and video recording of field activity in the course of official police duties.

B. The use of the portable video recording system provides documentary evidence for criminal investigations, internal or administrative investigations, and civil litigation. Personnel shall utilize this device in accordance with the provisions in this policy to maximize the effectiveness of the audio/video documentation to achieve operational objectives and to ensure evidence integrity.

### 449.2 DEFINITIONS

#### A. PERSONNEL

Any uniformed personnel employed with the Newark Police Department

#### B. ROUTINE

During the regular course of one's duties

#### C. PVRS Device

The Portable Video Recording System is an ultra-durable on-officer video camera.

### 449.3 POLICY

A. Unauthorized use, duplication, and/or distribution of PVRS files are prohibited. Personnel shall not make copies of any PVRS file for their personal use and are prohibited from using a recording device such as a personal phone camera or any secondary video camera to record PVRS files.

All recorded media, images and audio are property of the Newark Police Department and shall not be copied, released, or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Police.

B. The PVRS shall not be used to record non-business related activity and shall not be activated in places where a reasonable expectation of privacy exists, such as locker rooms, dressing rooms or restrooms.

C. Only trained personnel shall operate PVRS equipment.

D. All personnel who are assigned a PVRS shall wear the device during any regular shift, any overtime shift and when the Chief of Police or their designee deem it appropriate to wear. Personnel will use only the PVRS issued and approved by the Department. The wearing of any other personal video recorder is not authorized.

E. Personnel shall not remove, dismantle or tamper with any hardware and/or software component or part of the PVRS.

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F. There are many situations where the use of the PVRS is appropriate. This policy is not intended to describe every possible circumstance. Personnel may activate the system any time they feel its use would be appropriate and/or valuable to document an incident. Unless it is unsafe or impractical to do so, personnel should make an effort to activate their PVRS cameras prior to making contact in any of the following incidents:

1. Enforcement encounters where there is a reasonable suspicion the person is involved in criminal activity. This includes, but is not limited to dispatched calls as well as self- initiated activities.

2. Probation or parole search.

3. Service of search or arrest warrant.

4. Vehicle Pursuits (As soon as practical)

5. K9 Deployments, i.e. cover officers, perimeter officers, etc.

6. Contacts with person(s) suffering from issues related to mental illness.

7. Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require taping

G. Personnel may activate the PVRS before or during any other incident at their discretion

H. 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).

I. Personnel shall not intentionally activate the PVRS recording functions in the following incident:

1. To record any personal conversation of or between another department member or employee.

J. Personnel may elect not to activate the PVRS recording functions in any of the following incidents:

1. Personnel taking a report or conducting a preliminary investigation who reasonably believe no criteria for activation are present.

2. Personnel meeting with any Confidential Informants

K. Personnel are not required to obtain consent from a private person when:

1. In a public place.

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2. In a location where there is no reasonable expectation of privacy (e.g., inside a building or dwelling where personnel are lawfully present and engaged in the performance of official duties).

L. Personnel are encouraged to advise private persons they are recording if the advisement may gain compliance, assist in the investigation, and does not interfere with the investigation or officer safety.

M. SWAT Personnel who are issued a PVRs and are engaged in an active SWAT entry shall defer to the SWAT Commander or Incident Commander for direction on the activation of the PVRs.

N. Detectives who are issued a PVRs and who are preparing to engage in a probation, parole, arrest or search warrant entry shall wear the PVRs on their outer vest carrier or uniform. They should also consider activating their PVRs cameras prior to making such entry and should maintain recording until the situation becomes static. Detectives should also consider using their PVRs when they deem necessary during the course of any investigation.

#### O. Investigation of Personnel

1. Criminal: Personnel who are the subject of a criminal investigation may only view their own audio/video recordings at the direction of the investigating officer.

2. Administrative: Personnel having received notification from the Professional Standards Unit and who are considered to be a subject or witness officer, may only view their own audio/video recordings at the direction of the Investigator.

### **449.4 RESPONSIBILITIES**

#### A. System Administrator

The System Administrator is designated by the Chief of Police and has oversight responsibilities to include, but not limited to, the following:

1. Operation and user administration of the system
2. System evaluation
3. Training
4. Policy and procedure review and evaluation
5. Coordination with IT regarding system related issues
6. Ensure all files are secure and maintained for a minimum of 365 days.
7. Ensure all evidentiary files are purged from the system in accordance with federal, state, local statutes and City of Newark/Newark Police Department evidence retention policies/practices.
8. Ensure PVRs files are reviewed and released in accordance with federal, state, local statutes and City of Newark/Newark Police Department retention policy.

#### B. Supervisory

1. Supervisors will ensure personnel utilize the PVRs according to policy guidelines.

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2. Supervisors may conduct random audits of recording to ensure adherence to policy, assess performance and for training purposes.

3. An audit log shall be submitted to the Administrative Division Commander. An audit log is a report used to identify the usage of the PVRs including number of times used and length of recordings.

C. Personnel utilizing the PVRs are responsible for the following:

1. Ensuring the battery is fully charged and operating properly.
2. Immediately reporting unresolved equipment malfunctions/problems to their supervisor.
3. Documenting the use of the PVRs on one of the following:
  - a. On the police report/CAD entry
  - b. As a notation on a citation
  - c. On a Field Contact card
4. Once video is captured officers should identify PVRs files:
  - a. When assigned, noting the NPD case number in the Case ID Field.
  - b. Entering a title. The title should include sufficient information to identify the file, such as crime code, suspect name, location, event, etc.
  - c. Selecting the appropriate category.
  - d. The information must be entered via a NPD computer work station or via corresponding PVRs application before the end of the shift.

#### **449.5 OPERATION**

A. Personnel should make every effort to test PVRs equipment prior to going into service and ensure the unit is properly charged.

B. Personnel shall position the camera on the front of their uniform to facilitate optimum recording field of view.

C. The PVRs must be manually activated.

D. Personnel should upload PVRs data files daily at the end of their shift at a NPD computer work station or via corresponding PVRs application to ensure storage capacity is not exceeded and/or to view uploaded audio/video.

#### **449.6 REVIEW OF PVRs FILES**

A. Although the data captured by the PVRs is not considered Criminal Offender Record Information (CORI), it shall be treated in the same manner as CORI data. All access to the system is logged and subject to audit at any time. Access to the data from the system is permitted on

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a right to know, need to know basis. Employees authorized under this policy may review video according to the provisions of this policy.

B. Once uploaded to the server, personnel may view their own audio/video data (e.g. to verify an identification, a vehicle license number or to review an incident for statement accuracy) at a Department desktop computer and documenting the reason for access in the “NOTES” section prior to viewing any data. Access is automatically time/date stamped and records each access by name.

C. An employee may review PVRs files as it relates to:

1. Their involvement in an incident for the purposes of completing a criminal investigation and preparing official reports.

2. Prior to courtroom testimony or for courtroom presentation.

3. In the event of a Critical Incident:

- a. All PVRs recordings shall be uploaded to the server as soon as practical.

- b. The initial interview of an Involved Officer should occur before the officer has reviewed any audio/video recordings of the incident. An Involved Officer will have the opportunity to review recordings after the initial statement has been taken. Investigators should be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by an Involved Officer. If the investigator shows any audio/video recordings to an Involved Officer after the initial interview, the investigator has the discretion to admonish an Involved Officer about the limitations of audio/video recordings.

The following is an example of an admonishment that would be appropriate in a case involving video evidence:

In this case, there is video evidence that you will have an opportunity to view after you have given your initial statement. Video evidence has limitations and may depict the events differently than you recall, and may not depict all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The “frame rate” of video may limit the camera’s ability to capture movements normally seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident.

4. For potential training purposes.

#### **449.7 PVRs FILE REQUESTS**

##### A. Departmental Requests

Department requests, where the recording was not copied by the originating officer to a DVD or CD, including requests from the District Attorney’s Office or City Attorney’s Office, shall be

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forwarded via a written request via email with sufficient information to locate the PVRs file to the System Administrator or to the originating officer.

#### B. Non-Department Requests

1. All other requests for a PVRs file shall be accepted and processed in accordance with federal, state, local statutes and Departmental policy (court cases, subpoena's, public records act, etc.) as set forth in the Records Maintenance and Release policy.

2. Media inquiries and/or requests shall be received and processed in accordance with the Media Relations policy.

C. When practical, personnel will be advised, prior to the release of video requested per the California Public Records Act or court order to a public entity and within the guidelines consistent with Records Maintenance and Release policy.

#### D. Request for Deletion of Accidental Recording

In the event of an accidental activation of the PVRs, the recording employee may request that the PVRs file be deleted by notifying the on duty sergeant or their assigned supervisor. The supervisor must review the recording and determine it is a "non-work related" recording prior to deleting the file.

"Non-work related" recordings are defined as recordings made while conducting activities outside the scope of employment related activities or duties, and not in violation of department policies and procedures. An example of non-work related activities includes eating, using the restroom, dressing, casual interactions with other employees, etc.

All other videos cannot be deleted without Division Commander approval. The Division Commander shall review the file, approve or deny the request, and forward to the System Administrator for action.

#### E. Copying Procedures

1. The employee shall make a copy of all recordings which contain evidentiary value. The recordings are to be copied to a CD or DVD and stored in accordance to property and evidence guidelines. Ensure PVRs files of evidentiary value are secured and maintained as directed by current laws and statutes in accordance with the department policy and procedures for evidence.

2. Investigators conducting sensitive criminal or internal investigations shall advise the System Administrator to restrict access of the PVRs file in criminal or internal investigations and all recordings shall be copied to a permanent format (CD or DVD).

F. A PVRs file may be utilized as a training tool for individuals, specific units, and the Department as a whole. A recommendation to utilize a PVRs file for such purpose may come from any source as outlined below:

1. A person recommending utilization of a PVRs file for training purposes shall submit the recommendation through the chain of command to the Operations Commander or designee.

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2. If an involved officer or employee objects to the showing of a recording, his/her objection will be submitted to staff to determine if the employee's objection outweighs the training value.

3. The Operations Commander or designee shall review the recommendation and determine how best to utilize the PVRs file considering the identity of the person(s) involved, sensitivity of the incident, and the benefit of utilizing the file versus other means (e.g. General Order, Training Bulletin, Officer Safety Bulletin, briefing or other training).

#### **449.8 REPAIR PROCEDURE**

A. Personnel should immediately report any problems with the PVRs to their immediate supervisor.

B. Upon notification, the supervisor shall contact the System Administrator or designee stating the problem or malfunction.