DEPARTMENTAL
GENERAL
ORDER

I-15.1

Index as:

Portable Video Management System

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PORTABLE VIDEO MANAGEMENT SYSTEM

The purpose of this order is to set forth Departmental policy and procedures for the Portable Video Management System (PVMS), which includes a Portable Digital Recording Device (PDRD), designed to record both audio and video of field activity.

Progressive police departments are increasingly utilizing a variety of audio/video technology to further the mission of their departments. The Oakland Police Department has adopted PDRD technology because of its flexibility to capture audio/video evidence and enhance the Department's ability to conduct criminal investigations, administrative investigations, and review police procedures and tactics.

I. POLICY

A. All personnel in an assignment with primarily field based responsibilities, as determined by the Chief of Police (COP), shall be assigned a PDRD for the duration of the assignment.

Other personnel, as determined by the COP, may also be assigned a PDRD.

B. All personnel assigned a PDRD shall carry and use the PDRD in accordance with the provisions of this order.

C. All PDRD files are the property of the Oakland Police Department. Unauthorized use, duplication, editing, and/or distribution of PDRD files is prohibited.

D. Personnel shall not delete any PDRD file, except as specified in Part VII, C.

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

F. Personnel are prohibited from wearing or using personally owned video recording devices in place of or in conjunction with an assigned PDRD.

G. The Project Resource Management Unit is designated as the Custodian of Record for all PDRD data files.

H. Personnel shall not intentionally use the PDRD recording functions to record any personal conversation of, or between another member/employee without the recorded member/employee's knowledge.

I. Personnel shall not intentionally use the PDRD to record at Department facilities where a reasonable expectation of privacy exists (e.g., bathrooms, locker rooms, showers) unless there is a legal right to record and a Departmental requirement to record.

J. Part II also applies to cover officers.

II. PDRD ACTIVATION AND DE-ACTIVATION

A. Required activation

Members shall activate their PDRD under any of the following circumstances:

1. Citizen contacts to confirm or dispel a suspicion that the citizen may be involved, as a suspect, in criminal activity;

2. Detentions and Arrests;

3. Assessment or evaluation for a psychiatric detention (5150 W&I);

4. Involved personnel, as defined by DGO J-4, PURSUIT DRIVING, during a vehicle pursuit;

5. Serving a search or arrest warrant;

6. Conducting any of the following searches of a person and/or property:

   a. Incident to arrest;

   b. Cursory* (i.e., patdown or limited weapons search);

      * Refer to Training Bulletin (TB) I-O.02, THE LEGAL ASPECTS OF SEARCHING PERSONS

   c. Probable Cause;
   d. Probation/Parole;

e. Consent; or

f. Inventory

7. Transporting any detained or arrested citizen (excluding prisoner wagon transports); or

8. Upon the order of a higher ranking member.

Members shall activate their PDRD <u>prior</u> to initiating the circumstances enumerated in Part II. A. 1-7, above.

B. Crowd Control Operations

During crowd control, protest or mass arrest incidents members shall use their PDRD consistent with this policy, and when directed by the Incident Commander. The Incident Commander shall document their orders in an appropriate report (e.g. Operations Plan or After Action Report) and provide the orders to all personnel.

C. PDRD Activation is not required under any of the following circumstances:

1. Members taking a report when the information available to them indicates the suspect is not on the scene;

2. During a preliminary investigation with a child abuse victim or a victim of a sexual assault;

3. Members meeting with any Confidential Informant, as defined in DGO O-4, INFORMANTS; or

4. Members on a guard assignment at a Police, Medical, Psychiatric, Jail or Detention facility. Members shall assess the circumstances (e.g., suspect's demeanor/ actions, spontaneous statements, etc.) of each guard assignment, on a continuing basis, to determine whether to discretionarily activate or de-activate their PDRD.

D. De-activation of the PDRD

1. Members shall not de-activate their PDRD, when it was activated as required by this policy, until one of the following occurs:

a. Their involvement in the citizen contact, arrest or detention has concluded or becomes a hospital guard (see part II, C, 4 above);

b. They receive an order from a higher ranking member;

c. They are discussing administrative, tactical or law enforcement sensitive information away from the citizen;

d. They are at a location where they are not likely to have interaction or a chance encounter with the suspect (e.g. outer perimeter post, traffic control post, etc.);

e. The searches requiring activation as enumerated in Part II, A have concluded and the member believes they will have no further interaction with the person;

f. They reasonably believe the recording at a hospital may compromise patient confidentiality;

g. A pursuit has been terminated and the member performs the required actions, as specified in DGO J-4, or notifies Communications they are in-service;

h. They are interviewing an informant for the purpose of gathering intelligence. At the conclusion of the interview, the PDRD shall be re-activated until no longer required by policy; or

i. They are meeting with an undercover officer. At the conclusion of the meeting, the PDRD shall be re-activated until no longer required by policy.

After a member de-activates their PDRD, it is their responsibility to ensure they re-activate their PDRD should the circumstances require it.

2. Statement taking

Personnel are authorized to use the PDRD to record statements in lieu of taking a written statement. PDRDs, however, shall not be used to record statements from child abuse or sexual assault victims.

a. Personnel shall advise or obtain consent from victims or witnesses when taking a PDRD recorded statement.

b. PDRD statements shall be recorded as an individual separate file, barring exigent circumstances. Therefore, during a required activation, where none of the de-activation criteria have been met, members may temporarily de-activate their PDRD to record individual separate statements.

c. Personnel shall follow the steps below when de-activating their PDRD for statement taking:

1). Prepare to immediately take the statement;

2). De-activated the PDRD then immediately re-activate the PDRD and begin taking the statement; and

3). Upon completion of the statement, de-activate the PDRD then immediately re-activate the PDRD, if continued recording is required.

Members shall repeat the above steps when de-activating/activating their PDRD to take multiple statements.

d. Personnel whose PDRD is not already activated shall activate it before and deactivate it after each statement is taken to create a separate individual file.

Refer to Report Writing Manual (RWM) S-01, STATEMENTS.

E. Discretionary Activation and De-Activation

Members, when not prohibited from or required to activate their PDRD, may use their own discretion when deciding to activate and de-activate the PDRD.

III. USE OF THE PORTABLE VIDEO MANAGEMENT SYSTEM

A. PDRD Operability

Members shall not utilize or wear a PDRD unless it is properly functioning. If at any time, after deploying to the field, a PDRD malfunctions or becomes inoperable it shall be replaced as soon as practical.

1. Function Check

   a. Members assigned or checking out a PDRD shall test the equipment prior to every shift. Once activated, the indicator light of a fully functioning PDRD should change from solid green to blinking green. If this does not occur, the PDRD is not fully functional and a backup camera shall be checked out prior to deploying in the field.

   b. Members shall report all malfunctioning or inoperable PDRD issues to a supervisor as soon as practical. Additionally any unresolved PDRD equipment malfunctions/problems shall be reported to the Project Administrator for camera replacement or repair.

   c. Absent exigent circumstances, members shall check out a backup camera prior to deploying in the field and utilize it as required until such time as their assigned camera is operational or a new camera is assigned.

2. Battery Maintenance

   a. Members shall ensure their PDRD battery is fully charged at the beginning of their shift.

   b. Personnel assigned to maintain and issue backup PDRDs shall ensure the batteries are fully charged before issuing.

3. Data Upload

   Members shall upload PDRD data files at the end of and, if needed, during their shift to ensure storage capacity is not exceeded.

B. PDRD Placement

1. Members shall position and securely attach the PDRD to the front of their uniform or uniform equipment, as the primary recording location, to facilitate recording.

2. The PDRD may be temporarily moved from the primary location to facilitate recording in furtherance of a police objective. Upon completion of the objective, the PDRD shall be returned to the primary recording location as soon as practical.

C. PDRD Use Documentation

1. Personnel are required to document all activations of their PDRD, except for test or accidental recordings.

   Documentation shall be provided in at least one of the following reports, as appropriate:

   a. Crime Report;

   b. Consolidated Arrest Report, electronic or paper, or Juvenile Record;

   c. Field Interview;

   d. CAD notes; or

   e. Use of Force Report

2. Personnel are required to document and explain in one of the reports specified above any delayed or non-activation of their PDRD when PDRD activation was required.

IV. VIEWING PDRD VIDEO FILES

Viewing PDRD video files is authorized, restricted or prohibited as follows (refer to Part V for required documentation):

A. Level 1 Use of Force, Level 1Pursuit or In-Custody Death

1. In the event of a Level 1 use of force, Level 1 pursuit or an in-custody death, all PDRD recordings shall be uploaded to the server as soon as practical.

   a. An involved or witness member's PDRD shall be taken from them and secured by a supervisor, commander or appropriate investigator, as necessary. The recordings shall be uploaded by personnel designated by the CID investigator.

   b. After the recordings are uploaded, the CID investigator or designee shall turn the PDRD in to property until the CID and IAD Commander determine it may be released back to the member. The CID investigator shall ensure the chain of custody is documented in their report.

c. All personnel uploading secured PDRDs shall document that fact in their report and the "Comment" field of each video file they uploaded.

d. Personnel uploading secured PDRD video files shall not view the files unless authorized by the CID investigator.

2. No personnel involved in or a witness to the incident may view any audio/video recordings prior to being interviewed by the appropriate investigative unit and receiving command approval.

3. Once a member's report(s) has been submitted and approved and the member has been interviewed by the appropriate investigator, the investigator will show the member his/her audio/video. This will occur prior to the conclusion of the interview process

Personnel will be given the opportunity to provide additional information to supplement their statement and may be asked additional questions by the investigators.

B. Investigation of a Member

1. Criminal - Personnel who are the subject of a criminal investigation may not view any audio/video recordings related to the incident except upon approval, as specified below, by the CID or IAD Commander.

2. Administrative – Personnel having received notification (Complaint Notification Report [CNR]) from the IAD and who are considered to be a subject or witness officer, may not view any audio/video recordings related to the incident except upon approval, as specified below, by the IAD Commander.

3. Requesting Review of Audio/Video Recordings

Subject or witness personnel wanting to view any of the audio/video recordings related to the incident shall make a request to do so, in writing or via email, to the CID or IAD Commander, as appropriate.

4. Approval or Denial to Review Audio/Video Recordings

a. The CID or IAD Commander receiving the above request shall notify the member, in writing or via email, of the approval or denial to view the recordings.

The CID or IAD Commander shall document the approval or denial in the case file notes/log or include a copy of the approval or denial correspondence in the case file.

b. Approval to view the audio/video recordings may be made by the CID or IAD Commander as long as he/she has determined that allowing the recordings to be viewed will not be detrimental to the investigation.

C. Investigatory Review

Personnel assigned to CID or other investigatory units are authorized to view any PDRD video file associated to their active investigations, unless otherwise prohibited by policy.

Investigators conducting criminal or internal investigations shall:

1. Advise the Project Administrator or a System Administrator to restrict public disclosure of the PDRD file in criminal or internal investigations, as necessary;

2. Review the file to determine whether the PDRD file is of evidentiary value and process it in accordance with established protocols; and

3. Notify the System Administrator to remove the access restriction when the criminal/internal investigation is closed.

D. Supervisor and Commander Review

Supervisors and commanders are authorized to review their own PDRD video files, all video files of their subordinates and, as necessary to complete required duties, any associated video files of non-subordinate members, unless otherwise prohibited by policy.

1. In addition to other required video recording reviews, all supervisors shall conduct a random review of at least one PDRD recording for each of their subordinates on a monthly basis. The selected recordings shall be viewed in their entirety and shall have a minimum length of ten (10) minutes.

2. When a supervisor is approving or investigating a UOF or vehicle pursuit they shall review the PDRD recordings of all members who are a witness to or involved in the use of force.

3. Supervisors review of subordinate PDRD recordings shall include an assessment of:

   a. Officer performance and training needs;

   b. Policy compliance; and

   c. Consistency between written reports and video files.

4. When a member does not activate or de-activate their PDRD as required, supervisors and commanders shall determine if the delayed or non-activation was reasonable, based upon the circumstances.

   If the supervisor determines that the delay or non-activation was reasonable they shall document their justification in the UOF report or, if no UOF report is generated, in the officer's SNF. The supervisor's commander shall be advised and their name noted in the SNF.

5. Supervisors, commanders, and managers who discover Class II misconduct during the review of PDRD video, that does not indicate a pattern of misconduct, may address the Class II misconduct through non-disciplinary corrective action. Supervisors shall, at a minimum, document any Class II violation of this policy in the officer's SNF.

E. Member Review

Members are authorized to review their own PDRD recordings to properly identify the data files, refresh their memory regarding an incident or any other work related purpose, unless otherwise prohibited by policy.

F. Other Review

1. OIG staff (when conducting audits), supervisors, commanders, active FTOs and the FTO Coordinator are authorized to view PDRD files to investigate allegations of misconduct or evaluate the performance of members, unless otherwise prohibited by policy.

2. Training staff is authorized to view PDRD video files regarding incidents which may serve as learning or teaching tool.

G. When personnel are authorized to view a PDRD video file by this policy, the video file shall be reviewed on a Department computer by logging onto the VERIPATROL system.

V. VIDEO FILE DOCUMENTATION AND CHAIN OF CUSTODY

To ensure accountability for the proper identification, tracking and chain of custody for all original PDRD video files stored on the Department server and external copies of the PDRD video files, all personnel shall follow the protocols below.

A. PDRD File Information Documentation

1. Members shall enter in VERIPATROL the RD # associated with each video file. If no RD # is created for the video, the full CAD incident number shall be entered. Members shall add this data to the file by using the "Add Details" button in the VERIPATROL software program:

   a. Category column- Select the appropriate category from the drop down menu; and

   b. Case # column- Enter the report number if one exists, or if none exists, the full 15 digit incident number (i.e. LOP141002001196); or

   c. If a PDRD video file was created and does not have an associated RD or incident number, the member shall enter "NONE" in the comment column.

   This task should be completed by logging into VERIPATOL Mobile in the patrol vehicle where viewing and annotation can be completed daily throughout the member's shift.

2. Members are authorized to view their video in order to properly identify the data file unless otherwise prohibited by policy.

3. Entering the information specified in Section 1, above, shall be completed daily. Should conditions exist that prohibit completion during the member's shift, it shall be completed minimally by the end of the member's next regularly scheduled work day.

During incidents that require a large scale activation of the Department's members, (i.e. protest, natural disaster, etc.), the incident commander may approve delayed information entry, except in cases that require an investigative callout (e.g. Level 1 UOF, ICD, VPRD, criminal investigation of a member or employee.) The Incident Commander shall document their orders in the After Action Report.

B. Viewing a PDRD video file

Authorized personnel viewing any video file shall document the reason for access in the "Comments" field of each video file viewed. The entry shall be made either prior to viewing the video or immediately after viewing the video.

C. Copying a PDRD video file other than for court

1. Personnel authorized to make copies of PDRD video files shall document the reason for making the copy and the name of the person receiving the copy in the "Comments" field of each video file copied. If applicable the name entry shall also include the person's rank and serial number.

   The entry shall be made either prior to copying the video file or immediately upon completion.

2. Copies of PDRD video files for internal use shall be maintained in the appropriate case file or a secure location. When the copy is no longer needed, it shall be returned to a system administrator for destruction. The system administrator shall make an entry in the "Comments" field of the video file that the copy was destroyed.

3. Copies of PDRD video files for release pursuant to a public records request or as authorized by the Chief of Police or designee, shall be redacted, as required by prevailing law and Department procedures, prior to release. (Refer to Part VII regarding public records access.)

4. All personnel are prohibited from:

   a. Making unauthorized copies of an original or copied PDRD video file;

   b. Giving or showing copies of PDRD video files to anyone without a lawful right to know and need to know, unless authorized by the Chief of Police; and

   c. Posting or having another person post a copied PDRD video file on any social media site or public site, unless authorized by the Chief of Police.

D. Copying a PDRD video file for court

1. Personnel authorized to make copies of PDRD video files shall document the reason for making the copy and the name of the person receiving the copy in the "Comments" field of each video file copied. If applicable, the name entry shall also include the person's rank and serial number.

   The entry shall be made either prior to copying the video file or immediately upon completion.

2. The person receiving the copy shall maintain the copy in a secure location until it is needed for court or custody is transferred to another person. Additionally, they shall document, as soon as practical, the name and/or position of the person receiving the copy in the "Comments" field of each video file.

   The documentation of the chain of custody and responsibility to secure the copy shall transfer to the person receiving the copy until:

   a. The copy is received by non-Department personnel (e.g. District Attorney, City Attorney, Court Clerk, etc.);

   b. The copy is admitted in to evidence; or

   c. The copy is returned to a system administrator for destruction.

3. System Administrators receiving a video file copy for destruction shall ensure the copy is destroyed and make an entry in the "Comments" field of the video file that the copy was destroyed.

4. CID or other investigative personnel taking a case to the District Attorney for charging are responsible for obtaining copies of all applicable PDRD files for presentation to the DA.

VI. RESPONSIBILITIES

A. Project Administrator

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

1. Document and track malfunctions and equipment failures;

2. Policy and procedure review and evaluation;

3. Ensure PDRD files are secured and retained for a minimum of two (2) years;

4. Ensure PDRD files are reviewed and released in accordance with federal, state, local statutes, and Departmental General Order M-9.1, PUBLIC RECORDS ACCESS;

5. Train the System Administrators to ensure consistency; and

6. Establish policy and procedures for the replacement of non-functioning PDRDs and the check-out of spare PDRDs.

B. System Administrators

System Administrators shall be designated by the Bureau Commander for non-patrol assignments or the CID Commander for CID personnel. All Sergeants of Police assigned to the Patrol Division are System Administrators.

System Administrator responsibilities shall include, but are not limited to, the following:

1. Ensure officers are assigned a fully functional PDRD. Malfunctioning PDRDs shall be replaced as soon as practical, in the manner specified by the Project Administrator;

2. User training;

3. Ensure the return of damaged equipment to the Project Administrator;

4. Make copies of PDRD files for court or other authorized activities;

5. Destruction of copied PDRD files not admitted as evidence in court or no longer needed internally; and

6. Approve/disapprove requests for deleting accidental recordings.

VII. PDRD FILE REQUESTS

A. Departmental Requests

Personnel requiring a copy of PDRD audio/video file(s) for court shall contact their first line supervisor. If the first line supervisor is unavailable, personnel shall contact any System Administrator.

1. In non-patrol assignments, requests for PDRD audio/video file(s) shall be forwarded to the designated System Administrator.

2. Any PDRD copies not entered into evidence shall be returned to the first line supervisor or a System Administrator for destruction.

B. Non-Departmental Requests.

Public Records requests shall be accepted and processed, in accordance with the provisions of federal, state, local statutes and DGO M-9.1, PUBLIC RECORDS ACCESS, and forwarded to the Project Administrator.

C. Request for deletion of an accidental recording.

In the event of an accidental activation of the PDRD and the resulting recording is of no investigative or evidentiary value, the respective personnel may request that the PDRD file be deleted by submitting an email request to their immediate supervisor with sufficient information to locate the PDRD file.

Approved requests shall be submitted to the Project Administrator at PDRD@oaklandnet.com.

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

1. A person recommending utilizing a PDRD file for training purposes shall submit the recommendation through the chain-of-command to the Training Section Commander.

2. The Training Section Commander shall review the recommendation and determine how best to utilize the PDRD file considering the identity of the person(s) involved, sensitivity of the incident and the benefit of utilizing the file versus other means.

VII. REPLACEMENT PROCEDURES

A. Personnel shall report any recognized problems with the PDRD as well as a lost, stolen or damaged PDRD to their immediate supervisor as soon as practical. Upon notification, the supervisor shall facilitate the replacement of the PDRD as soon as practical.

B. Supervisors shall document a lost, stolen or damaged PDRD as specified in DGO N-5, LOST, STOLEN, DAMAGED CITY PROPERTY, unless the PDRD stops functioning properly for no apparent reason and the supervisor does not observe any sign of damage.

By Order of



Sean Whent
Chief of Police

Date Signed: 21 Jul 15