

## OFFICE OF THE CHIEF OF POLICE

### NOTICE 1.11

August 12, 2019

**TO:** All Department Personnel

**FROM:** Chief of Police

**SUBJECT:** AXON CAPTURE PROCEDURES – ESTABLISHED

The purpose of this Notice is to establish procedures for using the Axon Capture application. The Department has enabled the Axon Capture application in each Department-issued smartphone issued to officers who are equipped with Body Worn Video (BWV). Axon Capture is an application installed on Department-issued smartphones used to capture digital evidence (photographs, audio, and video). The Axon Capture application is comprised of the following options: camera, audio, video, and citizen. Once logged in, the camera option will provide the ability to take photographs with the smartphone just like a traditional camera. The audio and video options will appear in the application allowing for audio or video recordings to be captured. Lastly, the citizen option will allow the public to submit digital media as evidence. All digital evidence submitted in the Axon Capture application will upload to Evidence.com using an internet connection. Once uploaded to Evidence.com, all digital evidence will automatically be removed from the smartphone.

**PROCEDURES:** Sworn personnel who are BWV-equipped shall carry their assigned Department-issued smartphone on their person. Officers shall utilize the Axon Capture application to take photographs when necessary, instead of using a Department digital camera. Department personnel not assigned a Department-issued smartphone should continue to follow Operations Order No. 2, *Digital Camera Use and Deployment*, dated April 10, 2008.

**Note:** This Notice does not apply to Department photographers assigned to the Photography Unit, TID.

**I. CAMERA OPTION.** The camera option allows officers to take an unlimited number of photographs. Upon completion of taking all photographs for an incident, officers shall complete the following steps:

- Select photograph(s);
- Insert the complete incident number in the “ID” field;
- Select, “Add category” and choose the correct event type for the incident in the drop-down menu; and,
- Select upload.

Photographs taken with Axon Capture that have no evidentiary value (e.g., duplicative or out-of-focus) may be deleted. However, once uploaded to Evidence.com, officers will not have the capability to delete the photographs.

**Note:** Axon Capture shall not be used for photographs when the incident requires the response of the Photography Unit, Technical Investigation Division (TID), as outlined in Chief of Detectives Notice, *Photographic Documentation and the Use of Department Digital Cameras*, dated July 1, 2014.

**II. AUDIO AND VIDEO OPTION.** Officers may use the audio and video option as an investigative tool to record evidentiary statements and/or evidence at a scene. The use of the audio and video option during an investigation is not a substitute for the use of BWV, the Digital In-Car Video System, or the Photography Unit, TID. Absent a tactical or investigative need not to do so, officers shall verbally identify themselves, the date and time, and the name of the person or persons being recorded. After creating a recording using the audio or video option, officers shall:

- Select the audio/video;
- Insert the complete incident number in the “ID” field;
- Select, “Add category” and choose the correct event type for the incident in the drop-down menu; and,
- Select upload.

**III. CITIZEN OPTION.** The citizen option will allow any person in possession of digital evidence such as photographs and/or video to submit and upload such evidence to Evidence.com for review. If an officer becomes aware that a person wishes to submit digital evidence, the officer should select the citizen option to send a link to the person in possession of digital evidence via email or text short message service (SMS). The officer can enable this feature by completing the following steps:

- Choose the correct category for the incident in the drop-down menu;
- Insert the complete incident number in the “ID” field;
- Select “phone” or “email”;
- Insert the mobile phone number or the email address of the person in possession of the digital evidence;
- Select “Yes, store contact info” to identify the person in possession of the digital evidence;
- Insert the first name, middle name, last name and date of birth of the person in possession of the digital evidence; and,

**Exception:** When a person in possession of digital evidence declines to submit the evidence unless he or she is not identified as the submitting source, an officer should encourage the person to be identified for court purposes. However, when the person

cannot be persuaded to be identified, an officer may leave the “Yes, store my contact info” option unselected enabling the person to stay anonymous. Once the person anonymously submits the digital evidence to Evidence.com, his or her mobile number or email address will not be attached to the evidence.

- Press send.

**Note:** The link will stay active for three days prior to expiration. In the event the link expires, any officer may submit a new link from any Department-issued smartphone upon request from a citizen desiring to submit digital evidence. The officer shall enter the original incident number to correlate the new link to the corresponding case in Evidence.com.

**IV. PROHIBITION AGAINST USE DURING NON-ENFORCEMENT OR NON-INVESTIGATIVE SITUATIONS.** The Axon Capture application shall only be used in conjunction with enforcement or investigative activities. Axon Capture shall not be used to record Department personnel during briefings, meetings, roll calls, or while in private spaces such as locker rooms or restrooms.

**V. NOTICE TO MEMBERS OF THE PUBLIC OF RECORDING.** An officer is not required to obtain consent from members of the public for a recording made for investigative purposes when the officer is lawfully in the area where the recording takes place. For example, an officer who lawfully enters a business or residence may record investigative activity, as set forth in this Order, and is not required to obtain consent from members of the public to record.

**Note:** Department personnel are reminded that California Penal Code (PC) Section 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation is private or confidential; however, PC Section 633 exempts law enforcement from this prohibition during a criminal investigation.

**Note:** Officers shall not record telephone conversations except in accordance with existing law and Department electronic surveillance guidelines (Department Manual Section 3/568, *Radio and Electronic Investigation Equipment*).

**VI. NON-CATEGORICAL USE OF FORCE INVESTIGATION.** A Non-Categorical Use of Force (NCUOF) investigator should continue to utilize Department digital cameras when taking photographs for a NCUOF. The NCUOF investigator shall follow the procedures outlined in Chief of Detectives Notice, *Clarification of Digital Camera Procedures During Non-Categorical Use of Force Investigations*, dated March 18, 2009.

**Note:** This procedure is intended to alleviate concerns with sensitive photographs depicting Department employees related to an administrative investigation being stored in an open access evidentiary server.

**VII. OFFICER'S RESPONSIBILITIES.** Officers shall ensure all digital evidence is identified, categorized, and uploaded to Evidence.com prior to their end of watch. Digital evidence can only be uploaded by selecting "submit" when connected to the internet. Officers shall ensure all digital evidence is uploaded properly. When using Axon Capture, officers shall document the following in all corresponding reports:

- Successful submission of all digital evidence;
- Description of the digital evidence;
- Number of digital evidence items; and,
- Name and serial number of who took the photograph or created the recording.

**VIII. INVESTIGATING OFFICER'S RESPONSIBILITIES.** Prior to submitting case folders in Evidence.com to any outside entity (i.e., District Attorney's Office, City Attorney's Office), the investigating officer shall locate and associate all pertinent digital evidence to a case folder. The investigating officer shall identify such folder with the complete incident number.

**IX. WATCH COMMANDER/OFFICER IN CHARGE'S RESPONSIBILITIES.** The watch commander (WC)/Officer in Charge (OIC) shall ensure that photographs related to administrative investigations are taken by a supervisor with a Department digital camera and that the Photography Unit, TID, is notified of any photographic documentation that falls within their responsibilities. The WC and/or OIC shall also ensure the following is included in each officer's report:

- Documentation regarding the successful submission of all digital evidence;
- Description of the digital evidence;
- Number of digital evidence items; and,
- Name and serial number of employee who took the photograph or created the recording.

**X. TRAINING COORDINATOR'S RESPONSIBILITIES.** The Area/division training coordinator shall serve as the Area/division Axon Capture coordinator and ensure the following:

- All BWV-equipped officers receive training on the use of Axon Capture; and,
- All devices in need of repair are forwarded to Information Technology Group (ITG).

**XI. CONFIDENTIAL NATURE OF IMAGES.** All official photographs, audio, video and information held by the Department or in the custody or control of an employee of the Department shall be regarded as confidential. Employees shall not disclose or permit the disclosure or use of such digital evidence or information except as required in the performance of their official duties. The unauthorized use of digital evidence or information obtained through employment with the Department can subject the employee to possible disciplinary action and/or criminal prosecution.

**XII. MODIFICATION OF IMAGES PROHIBITED.** Department employees shall not copy, alter, or otherwise modify in any manner, photographs taken with Axon Capture except as authorized by law or Department policy. Violation of this prohibition is serious misconduct and will subject the employee to disciplinary action and/or criminal prosecution.

**XIII. DAMAGED, MALFUNCTIONING, OR INOPERABLE EQUIPMENT.** If an officer's Department-issued smartphone is damaged or if the Axon Capture application malfunctions, the officer shall notify an on-duty supervisor who shall subsequently notify the watch commander. The officer shall check out a temporary replacement Department-issued smartphone, document the details using an Employee's Report, Form 15.07.00, and complete the following:

- Turn in the Department-issued smartphone to the training coordinator for repair; and,
- Provide the training coordinator with a copy of the completed Employee's Report.

**AUDIT RESPONSIBILITY:** The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



MICHEL R. MOORE  
Chief of Police

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