

In-Car Video Recording System

432.1 PURPOSE AND SCOPE

The Fremont Police Department has equipped each marked patrol car with an In-Car Video Recording System. The In-Car Video is designed to assist and compliment patrol officers in the performance of their duties. The In-Car Video is used to record certain activities by providing a visual and/or audio record. Video recordings are intended to be an evidentiary tool and to supplement the officer's report.

The Fremont Police Department also recognizes the limitation in capturing incidents on video due to the fixed nature of the In-Car Video and the limited distance capabilities of the audio recording equipment.

432.1.1 POLICY

The In-Car Video equipment has proven to be valuable in criminal prosecutions and in its ability to supplement and direct officer training. In order to maximize the usefulness of this tool, officers shall use the system to record designated events and maintain the recording as evidence or documentation, as described in this policy. This policy outlines the responsibilities of officers, supervisors, property clerks, and administrators in the use of the In-Car Video equipment.

This policy further provides officers with guidelines for the use of the In-Car Video to ensure documentation of a variety of circumstances as described in this policy.

432.1.2 DEFINITIONS

Personnel - Personnel who are trained to use the in car camera system

Recording Equipment - A Fremont Police Department approved In-Car Video consisting of a camera assembly, recording mechanism, video processing unit, body-worn camera wireless transmitter, and in-car equipment.

Body-worn camera Wireless Transmitter- A device worn by the officer to transmit conversations from the officer's location to the recording location. s.

Video Media - The storage platform used to store the video data, including the in-car digital video computer hard drives, server hard drives, backup equipment, CDs, and DVDs.

Video Files - The computer files created by the Fremont Police Department In-Car Video. These files include, but are not limited to, the digital video files and still photo files, along with the data associated with each recording, such as, the car identification, audio recordings, vehicle speed, patrol light indicators, siren status, brake application indicators, geographic direction, and a complete history of the video file activity by network user, such as creation date, retrieval, viewing, labeling, saving, and dates or replication.

Recording System Software - The Fremont Police Department approved software, which facilitates the handling and processing of video recordings. A limited version of this system is installed in the cars; a full version is installed on the in-station workstations.

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Retrieval - The act of using the video software to search the video server for particular video files.

Label/Annotate - The act of associating a specific identifier, such as, case numbers, incident history numbers, citation numbers, or other information as desired with video recordings.

Duplication - The process of burning video recordings to a portable media, such as, a CD or DVD, including the video reader required to view the files.

Video Upload - The act of transferring video files to a permanent location on the Fremont Police Department video server. This is also referred to as archiving.

Recording System - The Fremont Police Department approved In-Car Video equipment and software.

Triggered Events - The process that begins the recording of an event based on triggers outlined by the Chief of Police.

432.2 RESPONSIBILITIES

- (a) It shall be the responsibility of this department to ensure that the In-Car Video equipment is properly installed according to the manufacturer's recommendations as follows:
 - (a) In-Car Video equipment shall automatically activate (trigger) when emergency equipment (overhead lights) or a wireless transmitter is operating. The system may also be activated manually from the control panel affixed to the interior of the vehicle.
 - (b) The system will activate when the vehicle is traveling in excess of 80 miles per hour.
 - (c) Placement and operation of system components within the vehicle shall be based on officer safety requirements.
- (b) In-Car Video Department Administrators shall have the following duties:
 - (a) Oversight of the In-Car Video program.
 - (b) Establish policy and procedures for the use of the In-Car Video.
 - (c) Establish a system for downloading, storing and security of recordings.
 - (d) Establishing maintenance system to ensure availability of operable in car cameras.
 - (e) Establishing a system for tagging and categorizing data according to the type of incident captured.
 - (f) Establishing a system to prevent tampering, deleting, and copying recordings and ensure chain of custody integrity.
 - (g) Maintain logs of access and deletions of recordings.
 - (h) Coordination with ITS regarding system related issues.
 - (i) Training and user administration.

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- (j) Categories and retention schedule
 - (a) Non-criminal evidence - 1 year
 - (b) Traffic stop - 1 year
 - (c) Criminal - Misdemeanor - 3 years
 - (d) Criminal - Felony - 6 years
 - (e) Test - 10 days
 - (f) Property (IA use only) - 4 days
 - (g) 10-year category - 10 years
 - (h) Indefinite - indefinite
 - (i) Unknown - indefinite
- (k) Ensuring In-Car Video system files are reviewed and released in accordance with federal, state, local statutes, and the City of Fremont Police Department retention policy.
- (c) System Administrators - City of Fremont Information Technology Services (ITS) personnel are designated System Administrators. Their duties include:
 - 1. Operation and user administration of the system including software upgrades and system configuration changes.
 - 2. System evaluation and quality control.
- (d) Supervisors shall have the following duties:
 - (a) Supervisors will ensure personnel utilize the In-Car Video system according to policy guidelines.
 - (b) When a critical incident arises where the Patrol vehicle becomes part of the crime scene and there is a delay in the vehicle returning to the station for a wireless file transfer to the server, at the direction of the investigator assigned to the case, a supervisor shall respond to the scene and ensure the appropriate In-Car Video Department Administrator, Officer designated by a supervisor, or Crime Scene Investigator removes the recorded media. The USB storage device shall then be delivered to the investigator to ensure the timely uploading of evidence for investigative purposes. The following are examples of critical incidents:
 - (a) Use-of-Force incidents;
 - (b) Officer involved shootings;
 - (c) Major injury/fatal collisions where the officer's vehicle(s) were involved; and
 - (d) Any other significant investigation where the sergeant believes the media needs to be transported to the station for uploading.
 - (c) Any supervisor at the scene of any critical incident, which has been resolved to a point where it is objectively reasonable that no further evidentiary need exists for

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further digital recordings may direct and ensure that all digital recording devices that were activated by any employee are deactivated.

- (d) Supervisors may review all video files when there is a legitimate business purpose. Supervisors should review In-Car Video files that captured use-of-force incidents, pursuits, significant events, and physical altercation incidents.
 - (e) Minor policy infractions (not criminal in nature) discovered during the routine review of recorded materials in accordance with departmental policy should be viewed as training opportunities and not as routine disciplinary actions. Should the behavior or action become habitual after being informally addressed, the appropriate disciplinary or corrective action shall be taken.
 - (f) When reviewing the video files, supervisors that find an issue portrayed in the video that could be used for a training point will need the approval of the Shift Lieutenant and shall notify the officer before showing the video file in briefing. The intent of showing video files in the briefing setting is for training purposes only. Sergeants should work with the assigned training sergeant to look for opportunities to use the video files for departmental training purposes.
- (e) Personnel Responsibilities:
- (a) All officers shall complete training on the In-Car Video system prior to being deployed with In-Car Video in operational settings.
 - (b) Prior to the beginning of each shift, the assigned officer shall perform an inspection to ensure that the In-Car Video equipment in their patrol car is performing properly in the following areas:
 - (a) Body-worn camera is functional and synchronized to their individual vehicle. The body-worn camera must be carried on the person as required by the Body worn-camera policy
 - (b) Camera is facing intended direction.
 - (c) Recording mechanism is capturing both audio and video information.
 - (c) Malfunctions, damaged, or missing equipment shall be reported immediately using Vehicle Complaint Form (#1038) located in the Equipment Room. The Officer shall notify equipment room personnel of the particular malfunction, note the malfunction in their vehicle's Computer Aided Dispatch (CAD) so it is documented in their Unit History, and notify a supervisor.
 - (d) At the end of each shift, the officer will review the new video and classify their files appropriately with the assigned case number, citation number, or incident history number.
 - (e) If appropriate, the officer will mark the digital evidence box in the Automated Report Writing System (ARS).
 - (f) In the event of an equipment malfunction in the field resulting in no video or audio files being captured, or if an activation required in section 3 (a) of this policy (*Activation of In-Car Video System*) is not captured, personnel will notify their supervisor. In any written police report documenting the incident, personnel

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should note the fact that a malfunction occurred or the reason the event was not captured. If there is no written police report documenting the incident, personnel should note in the CAD incident history the fact that a malfunction occurred.

- (g) *Officers may review the recording when preparing written reports of events to help ensure accuracy and consistency of accounts.*
 - (h) *With the exception of police radios, officers shall ensure that the volume from other electronic devices within the police vehicle does not interfere with In-Car Video recordings.*
 - (i) *Officers shall not duplicate for personal use, erase, alter, reuse, modify, or tamper with In-Car Video recordings or equipment. If an event falling under section 3(b) of this policy (Activation of In-Car Video System) was inadvertently recorded, the officer should notify their sergeant and request the recording be deleted. The request will be forwarded to the Division Commander via the Chain of Command for final approval.*
- (f) *Property Officer's Responsibilities:*
- (a) *Property Officers will be responsible for handling Public Records Act requests, evidence requests for DVD or digital copies of files produced by the In-Car Video system for evidence in court and other requests approved by the Chief of Police.*
 - (b) *Ordering, issuing, retrieving, storing, erasing and duplicating of all recorded media.*
 - (c) *Collecting all completed media for oversight and verification of wireless downloaded media. Once collected, the property officer:*
 - (a) *Ensures that the recordings are stored in a secure location with authorized controlled access.*
 - (b) *Makes the appropriate entries in the chain of custody log.*
 - (d) *Media shall only be erased according to the following:*
 - (a) *Pursuant to a court order.*
 - (b) *In accordance with established retention policies, including reissuing all other media deemed to be of no evidentiary value.*
 - (c) *Pursuant to a request from a Division Commander as outlined in section 2 (e) & (i) of this policy (RESPONSIBILITIES).*
 - (e) *Ensure an adequate supply of recording media is available.*
 - (f) *Manage the long term storage of recordings that have been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.*
- (g) *Records Unit Responsibilities*
- (a) *The Records Unit will be responsible for processing all Public Records Act requests, subpoenas and District Attorney's Office requests for recordings produced by the In-Car Video system.*

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- (b) *The Records Unit will be responsible for the receipt and processing of court ordered record seals in accordance with Penal Code 851.8 – Adult Seal; Welfare and Institutions Code sections 389(c) and 781(d) – Juvenile Seal, for recordings produced by the In-Car Video System to include retrieval and erasing of media.*

432.3 ACTIVATION OF IN-CAR VIDEO SYSTEM

The In-Car Video system is designed to turn on whenever the unit emergency lights are activated, the body-worn camera is activated, the vehicle exceeds 80 mph or the officer manually activates the system. The system remains on until turned off manually. The body-worn camera may be activated manually by each officer and is independent of the video. When a body-worn camera is synced to a vehicle's in-car video system, the body-worn camera will also start recording when the in-car video system is activated.

- (a) There are many situations where the use of the In-Car Video system is appropriate. This policy is not intended to describe every possible circumstance. At no time are personnel required to jeopardize their safety in order to activate the In-Car Video system. However, the In-Car Video system should be activated in required situations as soon as practical. The activation of the In-Car Video system is required in any of the following incidents:
 - (a) Prior to arrival to a call for service when practicable
 - (b) All enforcement and investigative contacts including, but not limited to:
 - (a) Detentions and field interview (FI) situations, probation and parole searches, search warrants, etc.
 - (b) All arrests and/or citations
 - (c) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance, and all crime interdiction stops.
 - (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
 - (e) Code 3 responses.
 - (f) Vehicle pursuits.
 - (g) Transports involving prisoners, suspects, victims, witnesses or any person involved in the investigation.
 - (h) Crimes in progress (when officers have sufficient time to activate the recording equipment).
 - (i) Automated speed trigger at 80 + MPH.
 - (j) Crash sensor activation
 - (k) Any other situation where personnel determines audio and visual evidence would be of use.
- (b) The In-Car Video system shall not be activated in the following circumstances:

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- (a) To record non-business related activity.
- (b) To record any personal conversation with or between other Department members or city employees.
- (c) When meeting with confidential informants unless surreptitious recording is in compliance with Section 3 (c) of this policy.
- (c) Sworn personnel are not required to obtain consent to surreptitiously record a conversation with a private person when:
 - (a) The officer is investigating a crime (Penal Code § 633);
 - (b) The officer or the person being recorded is in a location where there is no reasonable expectation of privacy (e.g. inside a building or dwelling where police personnel are lawfully present and engaged in the performance of official duties); or
 - (c) The person being recorded is in a public place. A recording is not surreptitious when the device is in plain view, such as a transmitter worn on the belt.
- (d) Under sensitive circumstances, personnel should consider whether to advise private persons they are recording, such as in a home, place of business, or during the rendering of medical care.

432.3.1 CESSATION OF RECORDING

- (a) Once activated, the recording should continue until the officer reasonably believes the encounter has concluded, the situation has stabilized, or further recording would not be of evidentiary value. The officer may halt the recording in accordance with this policy, in between interviews, or when directed by a supervisor.
- (b) Officers may cease recording when encountering or interviewing a victim who is in a vulnerable position or who asks not to be video-recorded.
- (c) Officers may cease recording when interviewing a subject who does not want to be video-recorded and the officer feels obtaining the information or statement exceeds the importance of video evidence.
- (d) In all cases above, the officer should verbally express the intent to stop recording prior to turning off the equipment, and should verbally express it has resumed if later reactivated. The officers should consider whether activating another type of recording device, such as audio recording would be appropriate for memorializing the interaction.

432.4 REVIEW OF IN-CAR VIDEO FILES

Although the data captured by the in car camera system is not considered Criminal Offender Record Information (CORI), it shall be treated in the same manner as CORI. All access to the system is logged and subject to audit at any time. Access to the data from the system is permitted on a right to know, need to know basis. Personnel authorized under this policy may review video according to the provision of this policy.

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Once uploaded to the server, personnel may view their own audio/video data files. Personnel may view audio/video data files from another employees' body-worn camera only when they are involved in the incident and with supervisor approval. Personnel may only view audio/video data associated to their investigation on a right to know, need to know basis. Access is automatically time/date stamped and records each access by name.

Supervisors may review all video files when there is a legitimate business purpose.

Personnel may review their own recorded In-Car Video system files under the following circumstances:

- (a) For the purposes of completing a criminal investigation and preparing official reports.
- (b) To prepare for courtroom testimony or courtroom presentation.
- (c) Following a critical incident: with supervisor approval, refer to Officer-Involved Shooting/ Great Bodily Injury Incidents policy (310).
- (d) All personnel shall only review recorded in car camera video in a right to know, need to know basis.

In no event shall any recording be used or shown for the purpose of ridicule or embarrassing any employee.

Whenever a video file is reviewed, the date, time, and name of the employee viewing the file will be documented in the file history. This documentation is subject to review.

432.5 IN-CAR VIDEO SYSTEM FILE REQUEST

- (a) Unauthorized use, duplication, and/or distribution of in-car camera system files are prohibited. Personnel shall not make copies of any in-car camera system file for their personal use and are prohibited from using a recording device such as a personal camera or any secondary video camera to record in-car camera system files. All recorded media, images and audio are property of the Fremont 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) Departmental requests, including requests from the District Attorney's Office or City Attorney's Office, shall be forwarded as a written request via e-mail, to the Property Unit, with sufficient information to locate the in-car camera system file.
- (c) Non-Department Requests
 1. All other requests for an in-car camera system file shall be accepted and processed in accordance with Federal, State and Local statutes and departmental policy.
 2. Media and/or Public Records Act requests shall be received and processed in accordance with Federal, State, Local laws and departmental policy.
 3. When practical, involved personnel will be advised prior to any release of video under the CPRA (California Public Records Act) and the guidelines consistent with departmental policy.

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- (d) Request for Deletion of Accidental Recording
 1. In the event of an accidental activation of the in-car camera system, the recording employee may request that the in-car camera system file be deleted by submitting an e-mail request with sufficient information to locate the in-car camera system file to the Division Commander, who shall review the file, approve or deny the request, and forward to the System Administrator for action.
- (e) Copying Procedures
 1. A copy of the in-car camera system file can be requested in accordance with the provisions of this policy.
 2. Property Officers will be responsible for handling evidence requests for DVD copies and online sharing of files produced by the in-car camera system for court and other approved requests by the Chief of Police or his/her designee.
 3. Property Officers will make a notation of the requestor and reason for each download, in the Evidence.com and WatchGuard systems.
- (f) Investigators conducting criminal or internal investigations shall advise the System Administrator to restrict access/public disclosure of the in-car camera system file, when necessary.
- (g) An in-car camera system file may be utilized as a training tool for individuals, specific units, and the department as a whole. A recommendation to utilize an in-car camera system file for such purpose may come from any source as outlined below:
 1. A person recommending utilization of an in-car camera system file for training purposes shall submit the recommendation through the chain of command to the Division Commander or designee.
 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 objections outweigh the training value. The Division Commander or designee shall review the recommendation and determine how best to utilize the in-car camera system 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., department policy, Training Bulletin, Officer Safety Bulletin, briefing or other training).

432.6 AUDIT RESPONSIBILITIES

The Division Commander or designee will conduct periodic, random audits to ensure the in-car camera system is operating properly and the camera is being utilized in accordance with policy.