

# Personal Communication Devices

## 702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCD) but is intended to include all mobile telephones, personal digital assistants (PDA) and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

## 702.2 POLICY

The Fontana Police Department allows members to utilize department issued PCDs in the workplace. Any department issued PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

## 702.3 PRIVACY EXPECTATION

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication.

In accordance with this policy, supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued PCDs that have been used to conduct department-related business. Administrative searches can take place for work-related purposes that may be unrelated to investigations of employee misconduct and, as practicable, will be done in the presence of the affected employee. All such searches shall be fully documented in a written report.

### 702.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No member is authorized to be the sole possessor of a department-issued PCD. Department-issued PCDs can be retrieved, reassigned, accessed or used by any member as directed by a supervisor without notice. Member use of a department-issued PCD and use of a personal PCD at work or for work-related business constitutes specific consent for access for department purposes.

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Prior to conducting an administrative search of a PCD, supervisors should consult legal counsel to ensure access is consistent with CalECPA (Penal Code § 1546; Penal Code § 1546.1).

#### **702.4 DEPARTMENT ISSUED PCD**

Depending on an employee's assignment and the needs of the position, the department may, at its discretion, issue a PCD. Department-issued PCDs are provided as a convenience to facilitate on-duty performance. Such devices and the associated telephone number shall remain the sole property of the department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless an employee is expressly authorized by the Chief of Police or the authorized designee for off-duty use of the PCD, the PCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

#### **702.5 PERSONALLY OWNED PCD**

Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Carrying a personal PCD is a privilege, not a right.
- (b) The department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) Employees shall promptly notify the Department in the event the PCD is lost or stolen.
- (d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Employees will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
- (e) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the department, without the express authorization of the Chief of Police or the authorized designee.

Except with prior express authorization from their supervisor, members are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. However, if an employee is in an authorized status that allows for appropriate compensation consistent with policy or collective bargaining agreements, or if the member has prior express authorization from his/her supervisor, the employee may engage in business-related communications.

#### **702.6 USE OF PCD**

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

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- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
- (b) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Employees shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
- (c) Employees may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (d) Employees are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.
- (e) Employees will not access social networking sites for any purpose that is not official department business.
- (f) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

#### **702.7 USE WHILE DRIVING**

Except in an emergency, employees who are operating non-emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Vehicle Code § 23123). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

#### **702.8 OFFICIAL USE**

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted.

The following situations are examples of when the use of a PCD may be appropriate;

- (a) Barricaded suspects
- (b) Hostage situations
- (c) Mobile Command Post
- (d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.
- (e) Major political or community events
- (f) Investigative stakeouts
- (g) Emergency contact with an allied agency or allied agency field unit

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- (h) When immediate communication is needed and the use of the radio is not available or appropriate and other means are not readily available