
Personal Communication Devices (PCDs)

701.1 PURPOSE AND SCOPE

- (a) The Department provides a variety of communications devices to aid members in performing their daily duties. The purpose of this policy is to establish guidelines for the use of these devices whether department-issued or personally owned. The policy is entitled "Personal Communication Devices (PCDs)" which refers to all communication devices including cellular telephones, personal data assistants (PDAs), tablets, or any other device that allow for the communication of verbal, pictorial, or written materials.

701.2 POLICY

- (a) Members of the Oakley Police Department may possess and use department-issued or personally-owned PCDs while in the workplace, subject to certain limitations and restrictions.
- (b) All members who require the use of a PCD as a part of their duties will be provided a department-owned PCD. A sworn members of the Oakley Police Department will be issued a PCD to perform official business upon. Issued PCDs will be carried by members while they are on-duty.
- (c) Department-issued PCDs are for official business purposes, but some personal use of the device is permitted, provided the use does not incur additional charges to the City. Acceptable personal use of Agency PCDs must be of a brief duration, address needs that cannot reasonably be handled during non-duty hours, and shall not adversely affect work performance.
- (d) Department members who have been issued a PCD are not expected to answer their PCD or respond to text messages while off-duty, unless they are in an on-call status.
- (e) The use or possession of a personally-owned PCD in the workplace is discouraged as the use of a personally-owned PCD for department business may result in the PCD being examined as a part of discovery in civil or criminal cases.
- (f) The inappropriate use of a PCD while on-duty may impact officer safety and may result in corrective counseling or disciplinary action.

701.3 REFERENCES

- (a) City Equipment and Resources, City of Oakley Personnel Policy Manual

701.4 PRIVACY RIGHTS, AUDITS AND OVERSIGHT FOR PCD

- (a) All records associated with department-issued PCDs are public records, including call detail records associated with monthly billings.
- (b) Members shall have no expectation of privacy with regard to any communication accessed, transmitted, received, stored, or reviewed on any PCD issued by the Department. The use of any department-provided PCD, computer, Internet service,

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telephone service or other wireless service while on-duty is without any expectation of privacy that the member might otherwise have in any communication.

- (c) Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services may be subject to disclosure if department equipment is used to access it.
- (d) In accordance with this policy, supervisors are authorized to conduct a limited administrative searches of electronic files without prior notice, consent or a search warrant, on department-issued PCDs.
- (e) Administrative searches of department-issued PCDs 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 member.
 - 1. When the department has probable cause and objective facts to show that an employee's personally owned PCD was used to conduct department related business, then the employee's personally-owned PCD may be subject to an administrative search. Any such administrative search shall be ordered and not requested and shall be based upon probable cause the Department may find information necessary to and has a nexus to the business of the department. Any such administrative search shall be limited in scope to a pending, current, or open department investigation. Any such administrative search will comply with all applicable state and federal laws. Any such administrative search shall only be conducted by an outside entity (agreed upon by the Chief of Police and the President of the POA).
 - 2. Any such administrative search will be narrowly defined and specified as to what the third-party is to search for in the employee's personally-owned PCD. Prior to conducting any administrative search of an employee's personally-owned PCD, supervisors shall consult with the Chief of Police and the employee shall be given reasonable time to consult a OPOA representative and/or legal counsel before releasing or providing any information from the employee's personally owned PCD. All such administrative searches shall be fully documented in a written report.

701.5 DEPARTMENT ISSUED PCD

- (a) 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.
- (b) The department shall provide and maintain PCDs issued to members.
- (c) Personnel that are issued PCDs shall be responsible for appropriate care to avoid loss or damage. Lost or damaged PCDs shall be reported promptly in writing to the member's supervisor.
- (d) Personnel with department issued PCD's that are not operating correctly or are in need of repair shall notify the Department's PCD Manager, who will arrange for repair or maintenance of the PCD.

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- (e) 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.
- (f) All personnel assigned a department-issued PCD will:
 - 1. Retrieve and turn on their PCD at the start of their shift.
 - 2. Ensure that their PCD's voicemail is properly set up and available to receive messages. The voicemail should minimally state the employees name, phone number, current work assignment, and a statement that if the person calling is reporting an emergency, that they should hang up and call 9-1-1.
 - 3. Minimally check their voicemail at the beginning and end of their shift.
 - 4. Members are encouraged to utilize their department-issued PCD to make contact with citizens who are requesting contact by telephone. Employees should provide citizens with their phone number for the purposes of follow-up and direct contact with the member.
 - 5. Members may utilize their department issued PCD to take evidentiary photographs. Photographs should be downloaded into evidence and deleted from the PCD as soon as it is practical to do so.
 - 6. Members are encouraged to leave their department issued PCD in their locker in between shifts.
 - 7. Members assigned a PCD will enter their phone number into their unit history at the start of each shift.

701.6 PERSONALLY OWNED PCD

- (a) Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:
 - 1. Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
 - 2. The Department accepts no responsibility for loss of or damage to a personally owned PCD.
 - 3. The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.
 - 4. The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Members 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.
 - 5. 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.

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6. If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.
7. All work-related documents, emails, photographs, recordings or other public records created or received on a members' personally owned PCD should be transferred to the Oakley Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

701.7 USE OF PCD

- (a) The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:
 1. 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.
 2. Members 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.
 3. Members 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.
 4. Members will not access social networking sites for any purpose that is not official department business.
 5. 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.
 6. Members will not download or install VPN Apps unless approved by their supervisor.

701.8 SUPERVISOR RESPONSIBILITIES

- (a) The responsibilities of supervisors include, but are not limited to:
 1. Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
 2. Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.

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701.9 OFFICIAL USE

- (a) Members 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. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other department communications network.

701.10 USE WHILE DRIVING

- (a) The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.
- (b) Except in an emergency, Professional Staff members who are operating department vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Vehicle Code § 23123; Vehicle Code § 23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

701.11 REVIEW DATE

- (a) 25 MAR 19
- (b) 30 DEC 19