

T. Roberts Draft Language for Body Cam Policy Section 450.7.1 Retention

Version 2---Retain all Recordings for 2 years-one month, with Certain Exceptions, to Ensure that Recordings will be Available During Statute of Limitations and Due Process Periods

Pro's—if there are 77,000 calls for service annually but only 26,000 are priority 1 and 2 calls (criminal, vehicle, bike and ped stops and suspicious vehicles) then 51,000 recordings may be retained for 2+ years and not be needed. Therefore, Version 2 allows certain nonevidentiary data to be reviewed for possible deletion after 1 year. (see A.b below). This would reduce data storage costs, and also reduce the time that recordings are held on file thereby reducing the opportunity for infringement on personal privacy.

Con's--- This could take a lot of staff time to review and purge possibly thousands of recordings at the one-year point. Version 1 would be simpler for staff because most recordings would be deleted at 2 years-one month and would not require that the recordings be reviewed prior to deleting.

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Possible Language follows;

450.7.1 Retention Requirements

California law section 832.18 governs retention requirements for video and audio recordings from body worn cameras used by police officers in the line of duty. Since it may be unknown at the time of a recording whether the recording is nonevidentiary data or evidentiary data this policy establishes retention times that provide sufficient time for complaints, claims, or other legal or procedural actions to be filed prior to a recording being erased, deleted, destroyed, or recycled (this wording comes from state law).

A. Accordingly, this policy requires that all video and audio recordings from BPD body cameras be retained for 2 years and one month (twenty-five months) prior to being erased, deleted, destroyed, or recycled with the following exceptions:

- a) If evidence that may be relevant to a criminal prosecution is obtained from a recording made by a body-worn camera under this section, BPD shall retain the recording for any time in addition to that specified in paragraph (A), and in the same manner as is required by law for other evidence that maybe relevant to a criminal prosecution. (CA law wording)
- b) If after a period of one year from the recording date the department can conclusively determine that recorded body camera data on file is nonevidentiary data, the data can be deleted at that time. (this paragraph is the main difference between Version 1 and Version 2)

B. For purposes of this section, "evidentiary data" refers to data of an incident or encounter that could prove useful for investigative purposes, including, but not limited to, a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. The retention period for evidentiary data are subject to state evidentiary laws. (CA law wording)

Pg. 2 Version 2

C. For purposes of this section, "nonevidentiary data" refers to data that does not necessarily have value to aid in an investigation or prosecution, such as data of an incident or encounter that does not lead to an arrest or citation, or data of general activities the officer might perform while on duty. (CA law wording)

NOTE: B & C may not be needed in the policy, but I put them in for discussion purposes