



### SHERIFF'S PERSONNEL SHALL UNDERSTAND THE PROVISIONS OF THE POLICY MANUAL PERTAINING TO BODY WORN CAMERA SYSTEM.

Sworn personnel must have a complete understanding of Sheriff's Office policy regarding body worn camera system. Sworn personnel shall be familiar with the policy and what it contains. Sheriff's Policy 421 establishes the Sheriff's Office policy regarding body worn camera. The following are excerpts from that policy. All affected personnel must be familiar with the entire Policy as stated in the Sheriff's Office Policy Manual.

#### POLICY

The use of Axon II Body Worn Cameras is intended to enhance the mission of the San Mateo County Sheriff's Office by capturing contacts between members of the San Mateo County Sheriff's Office and the public. The San Mateo County Sheriff's Office issues Axon II Body Worn Cameras to members for use during the performance of their duties. Members who are

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Deputies With New K9s



#### **FROM THE TRAINING MANAGER**

In the month of July, we anticipate starting to rotate patrol units through the VirTra 300 immersive simulator training system. This in-service training will be conducted on duty, with patrol units participating in scenarios that test decision making (de-escalation, use of force options, communication, tactics, etc.) and dialog choices during simulated calls for service.

The new Axon Body 3 camera systems are being deployed throughout the Office in May and June. If you are issued one, please ensure you login to [myaxon.com](https://myaxon.com) to complete the training module for this new body worn camera system. If you need a password reset, simply reach out to me for assistance. As a reminder to all staff issued body worn cameras, please ensure your cameras are turned on (and passively buffering) during your shift, per the policy included in this issue.

- Sgt. Jason Leone

## CODE OF ETHICS

**AS A LAW ENFORCEMENT OFFICER**, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

**I WILL** keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

**I WILL** never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

**I RECOGNIZE** the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

*"Camera" continued from page 1*

assigned an Axon II Body Worn Camera shall wear the device when working uniformed assignments and will activate the Axon Body II Worn Camera as provided by this policy.

The San Mateo County Sheriff's Office equips marked patrol vehicles with an Axon In-Car camera system. Members will use the Axon In-Car Camera System in conjunction with their

Axon Body II Worn Cameras during the performance of their duties. Members who are assigned a marked Sheriff's Office patrol vehicle will use the Axon In-Car Camera System as provided by the In-Car Camera System policy.

### MEMBER PRIVACY EXPECTATION

All recordings made by members on any office-issued device at any time, and any recording made while acting in an official capacity for this office, regardless of ownership of the device it was made on, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### MEMBER RESPONSIBILITIES

Before going into service, members issued a body worn camera will be responsible for making sure that he/she is equipped with their Axon II Body Worn Camera, and that the recorder is in good working order. If the Axon II

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Body Worn Camera is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/ her supervisor and request a replacement. Uniformed members shall wear the Axon II Body Worn Camera above the waistline and below the neckline at midline of their torso. Deputies shall utilize their viewers to ensure the Axon II Body Worn Camera is in a position where the field of view provides for effective recording. Uniformed members shall not intentionally obscure the view of their body worn camera. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Members shall document the existence of a recording that is evidence by making an evidence entry in accordance with the Property and Evidence Policy. For purposes of this section, "evidence" refers to recordings 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, use of force incident, or a confrontational encounter with a member of the public. Members shall also document any instance where the recorder malfunctioned, or the member deactivated the recording including the reason for deactivation.

Axon II Body Worn Cameras are not required to be worn at ceremonial events.

#### SURREPTITIOUS USE OF THE BWC

Members of the San Mateo County

Sheriff's Office may surreptitiously record any conversation during the course of a criminal investigation in which the deputy reasonably believes that such a recording will be beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another San Mateo County Sheriff's Office member without a court order or unless lawfully authorized by the Sheriff or the designee.

#### EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

#### PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using office-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity. Members are also prohibited from retaining recordings of activities or information obtained while on-duty. Members shall not duplicate or distribute such recordings, except for authorized legitimate Office business purposes. All such recordings shall be retained at the Office. Members are prohibited from using personally owned Axon II Body Worn Camera recording devices while on-duty. Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

#### PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Penal Code § 832.19). ☆

**EVIDENCE OF THE RETAIL PRICE OF A STOLEN ITEM IS ADMISSIBLE EVIDENCE OF FAIR MARKET VALUE OF THE ITEM.**

In California, the value of a stolen item may mean the difference between a misdemeanor theft charge and a felony grand theft charge. It also may mean the difference between a county jail sentence and a prison sentence.

A deputy was on patrol late one night when she saw an open gate at a warehouse facility. The deputy drove her patrol car into the facility to see what was going on. Once inside, she observed an SUV backed up to a loading dock next to a freight trailer that had its cargo doors open.

The deputy approached the vehicle and saw a man loading cardboard boxes into the back of the SUV. The man appeared to be nervous as he looked around. The boxes were labeled "Dialtech Selective Dumbbell."

The deputy noticed that the boxes were similar to boxes that were inside the freight trailer. The loading dock was about four-and-a-half feet above the ground. The deputy and her partner climbed up onto the loading dock. Based on her observations, the deputy placed the man under arrest for theft. After the arrest, the deputies began to unload the boxes from the SUV. The boxes were very heavy. The boxes weighed approximately 55 pounds per box. The deputies recovered 15 boxes of dumbbells from the SUV.

The man was arrested and was charged with grand theft. The man decided to take his case to a jury trial.

At the trial, the prosecution presented evidence of the value of the boxes of dumbbells that were stolen. The prosecution presented testimony from the manager of the warehouse facility regarding value. The witness testified that he first located the manufacturing number of the dumbbells that was found printed on the boxes. The witness then went to a website of a

popular internet retailer with the same name as a river in South America. The website offered the same dumbbells for \$357 per box or \$5,355 for 15 boxes. The witness also checked a fitness website that offered dumbbells for sale. On that site, he saw that the same dumbbells sold for \$498 a box, or \$7,470 for 15 boxes. The defense vigorously objected to the testimony from the witness. The defense claimed that the testimony was inadmissible hearsay because the testimony was offered for the truth of the value of the items. The trial court overruled the objection and ruled that the fair market value in the marketplace was relevant based on what price retailers are charging. The jury found the man guilty of grand theft.

In the case of *People v. Portillo*, the California Court of Appeal ruled that there was sufficient admissible evidence to support a conviction for grand theft based on the testimony of the warehouse manager regarding the value of the dumbbells.

In its written decision, the Court first noted that Penal Code section 484 states that every person who feloniously steals, takes, carries, leads, or drives away the personal property of another is guilty of theft. The Court further noted that theft is divided into two degrees, the first of which is termed grand theft; the second, petty theft.

The Court then quoted Penal Code section 487(a) and stated. "Grand theft is theft committed . . . [w]hen the money, labor, real or personal property taken is of a value exceeding nine hundred fifty dollars (\$950) . . ." The Court further stated, "The elements to prove grand theft are the taking of personal property valued at more than \$950 from the owner into the possession of the criminal without the consent of the owner or under a claim of right, and the asportation of the subject matter with the specific intent to deprive the owner of his property wholly and permanently."

The Court then stated, "In determining the value of the property obtained, for the

## OUR MISSION AND VISION

As stewards of our community, we envision a world where all humanity is valued and respected. We recognize our role as leaders in this effort and commit to seeking creative and effective ways to work with and listen to the needs of our residents, businesses, and stakeholders. We do this with the passion to preserve safety for all who live, visit, or work in San Mateo County.

**DIGNITY ❖ COMPASSION ❖ RESPECT**

## THE BOTTOM LINE

People First – Service Above Self

purposes of theft offenses, the reasonable and fair market value shall be the test. The fair market value of an item is the highest price obtainable in the marketplace as between a willing buyer and a willing seller, neither of whom is forced to act. Fair market value is not the value of the property to any particular individual. Fair market value may be established by opinion or circumstantial evidence. The price charged by a retail store from which merchandise is stolen is sufficient to establish the value of the merchandise, absent proof to the contrary. Jurors may also rely on their common knowledge in determining the value of an item.”

The Court then looked at whether the evidence of value offered at the trial was based on inadmissible hearsay. The Court stated, “Hearsay is an out-of-court statement offered for the truth of its content. Conversely, when an out-of-court statement is offered for any relevant purpose other than to prove the truth of the matter stated, the statement is not hearsay.”

The Court then stated, “When considering whether an out-of-court assertion is nonhearsay, the first and most basic requirement for applying the not-for-the-truth limitation is that the out-of-court statement must be offered for some purpose independent of the truth of the matters it asserts. That means that the statement must be capable of serving its nonhearsay purpose

regardless of whether the jury believes the matters asserted to be true.”

The Court noted that a price listing or price tag is evidence of a retailer’s offer to sell the item for a specified price, for the purpose of inviting a marketplace transaction. The Court stated that the advertised prices may be considered by the jury not for the truth of the value of the goods, but as circumstantial evidence of the price at which willing sellers and willing buyers would consummate a transaction in the marketplace. The Court stated that the advertised prices for the dumbbells in the marketplace are relevant to a determination of fair market value. ☆

## FROM THE RANGEMASTER

### *Shift Preparation Acronym – BU.L.S.*

Hello everyone, I want to take this opportunity to talk about preparation for your shift. When I mean shift, I mean transportation, patrol, or corrections. Before the start of each shift, you should remember the acronym BU.L.S.

#### **BU**

Stands for bullets. Make sure your gun is loaded before you shift. This includes making sure you have proper lubrication. Making sure your gun is clean and free of dust in the optic.

#### **L**

Stands for lights. Make sure your weapon light is working. This takes only a moment to turn the light on and off. When the battery starts getting low, you will notice the light is very dim. We will provide you with batteries at the range.

#### **S**

Stands for sights. Make sure your optic red dot is working. Check the brightness level and make optic window is free from dust or any obstruction. Use something designed to clean eyeglasses to clean the optic.

This entire process will only take a few minutes. By taking the time to remember **BU.L.S.**, you will have ensured all of you equipment is ready for a safe shift. Stay Safe.

- Sgt. David Weidner