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## Mobile Communication Devices

### 701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Department or personally owned, while on duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Mobile Communication Devices (MCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), smartphones, smartwatches, wireless capable tablets and similar wireless two-way communications and/or portable access devices. MCD 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.

### 701.2 DEFINITIONS

**Department issued MCD-** A MCD that is the sole property of the Department and is issued to an employee to be used for on-duty performance only.

**Personally owned (funded by City stipend) MCD-** A MCD that is personally owned (purchased, used, and maintained) by the employee and is funded by stipend from the City of Elk Grove.

**Personally owned (employee funded) MCD-** A MCD that is personally owned and fully funded by the employee.

**Business related use of MCDs-** Any and all department business related communication accessed, transmitted, received, or reviewed while on-duty and/or off-duty. Includes, but is not limited to, electronic mail, text messages, voice messages, audio recordings, photos, and video recordings.

**Personal use of MCDs-** Any non-department business related communication accessed, transmitted, received, or reviewed. Includes, but is not limited to, electronic mail, text messages, voice messages, audio recordings, photos, and video recordings.

### 701.3 POLICY

The Elk Grove Police Department (EGPD) allows members to utilize department issued MCDs and to possess personally owned (funded by the employee or by stipend) MCDs in the workplace, subject to certain limitations. Any MCD used for business related purposes while on-duty, or off-duty in any manner reasonably related to the business of the Department, will be subject to the standards set forth in this policy.

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

# Elk Grove Police Department

## Policy Manual

### *Mobile Communication Devices*

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Members who have questions regarding the application of this policy or the guidelines are encouraged to seek clarification from supervisory personnel.

#### 701.3.1 DEPARTMENT-ISSUED MCD

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue a MCD. Department-issued MCDs are provided as a convenience to facilitate on-duty performance only. Department-issued 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.

Any employee utilizing a MCD issued by the Department expressly acknowledges and agrees that the use of such device, whether for business or personal use, shall remove any expectation of privacy of the employee, sender, and recipient of any communication utilizing such device, including the content of any such communication. The Department also expressly reserves the right to access and audit any and all communications (including content) sent, received, and/or stored using such device. The device must be turned over to the Department at any time when requested to do so.

Unless a member is expressly authorized by the Chief of Police or the authorized designee for off-duty use of the department-issued MCD, the MCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

#### 701.3.2 PERSONALLY OWNED MCD FUNDED BY STIPEND FROM THE CITY OF ELK GROVE

Those employees who receive a communications stipend from the City of Elk Grove shall carry their own individually owned MCD while on duty subject to the following conditions:

- (a) The device shall be purchased, used and maintained at the employee's expense.
- (b) The device shall be carried or available to the employee at all times while on-duty.

#### 701.3.3 PERSONALLY OWNED MCD FUNDED SOLELY BY EMPLOYEE

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

- (a) Permission to carry a personally owned MCD while on-duty may be revoked if it is used contrary to provisions of this policy.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned MCD.
- (c) The MCD and any associated services shall be purchased, used and maintained solely at the employee's expense.
- (d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Members will have no expectation of privacy with regard to any department business related communication.

1. Members may use personally owned MCDs on-duty for routine administrative work as authorized by the Chief of Police.

# Elk Grove Police Department

## Policy Manual

### *Mobile Communication Devices*

---

- (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.
- (f) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned MCD should be transferred to the Elk Grove Police Department and deleted from the member's MCD as soon as reasonably practicable but no later than the end of the member's shift.

#### 701.3.4 USE WHILE DRIVING

The use of a MCD 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 while driving to either hands-free operation or to matters of an urgent nature. Any other uses including, but not limited to, texting, emailing, and accessing the internet should be made after stopping the vehicle at an appropriate location to use the MCD.

Except in an emergency, non-sworn members who are operating department vehicles shall not use a MCD 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.

Text messaging and any other type of communication requiring the use of an employee's hands to communicate is prohibited while operating both emergency and non-emergency department vehicles.

#### 701.3.5 APPROPRIATE USE OF A MCD

The use of mobile communication devices may be appropriate in the following situations:

- (a) Barricaded suspects.
- (b) Hostage situations.
- (c) Mobile Command Post.
- (d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.
- (e) Major political/community events.
- (f) Investigative stakeouts where regular phone usage is not practical.
- (g) Emergency contact with outside agency or outside agency field until equipped with MCDs.
- (h) When immediate communication is needed and the use of the radio is not appropriate and other means are not readily available.

Members are reminded that MCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing MCDs 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.

# Elk Grove Police Department

## Policy Manual

### *Mobile Communication Devices*

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#### 701.3.6 USE OF MCD

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

- (a) Personal use of all MCDs should be minimized while on-duty. Members shall endeavor to limit their use of MCDs to authorized break times, unless an emergency or special circumstance exists. Supervisors will address excessive personal use of MCDs while on-duty as needed.
- (b) Members may use a MCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. MCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (c) 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, is prohibited.
- (d) Using MCDs 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.

#### **701.4 PRIVACY EXPECTATION**

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received, or reviewed on any MCD issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see the Information Technology Use Policy for additional guidance).

Members forfeit any expectation of privacy with regard to any department business related communication accessed, transmitted, received, or reviewed on any personally owned MCD (both employee funded or funded by a City of Elk Grove stipend). Personal content and communication accessed, transmitted, received, or reviewed on any personally owned MCD (funded by City of Elk Grove stipend or by employee) is not generally subject to disclosure.

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

Member use of a department issued MCD and use of a personal MCD at work or for work-related business constitutes specific consent for access for department purposes.

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